

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM



Louisiana Department of Transportation & Development

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LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DBE PROGRAM

Introduction	3
Definitions Of Terms	4
Objectives & Policy Statement	4
Nondiscrimination	6
Records LADOTD Will Keep And Report	6
Federal Financial Assistance Agreement Assurance	7
DBE Program Updates	7
LADOTD's Policy Concerning This DBE Program	8
DBE Liaison Officer	8
DBE Financial Institutions	9
Prompt Payment Requirements	10
DBE Directory	11
Over Concentration Of DBEs	11
Monitoring And Enforcement Mechanisms	11
Quotas	13
Establishment Of LADOTD' S Goals For DBE Participation	13
Means LADOTD Will Use To Meet Its Overall Goals	14
Good Faith Efforts	15
Counting DBE Participation	21
Certification	21
Information Collection And Reporting	23
Fostering Small Business Participation	24
DBE/SBE Requirements for FTA Funded Projects	27

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT DBE PROGRAM

The Louisiana Department of Transportation and Development (LADOTD) is vested with the authority and responsibility to coordinate and develop a comprehensive, balanced transportation system for the State of Louisiana. In order to carry out those responsibilities, LADOTD is authorized to make such contracts and execute such instruments containing reasonable and necessary terms, provisions, and conditions for the purpose of obtaining or securing financial assistance, grants or loans from any agency or department of the United States.

In addition to funding from various resources of the State of Louisiana, LADOTD receives funding from the United States Department of Transportation (USDOT). As a condition of receiving such funds, LADOTD must comply with all federal statutes, regulations, guidelines and other requirements of the federal agencies.

The USDOT has the responsibility of insuring that firms competing for its financially assisted contracts are not disadvantaged by unlawful discrimination and issued new regulations in 1999 as part of its policy concerning the program commonly known as the Disadvantaged Business Enterprise (DBE) Program.

A revision became effective January 28, 2011, and requires the primary recipient of funding by the USDOT, as a condition of receiving federal funding to develop a DBE program that meets the requirements of the new regulation by February, 2011. LADOTD is required to establish a three-year overall goal based on the local availability of DBEs that are ready, willing, and able to participate in LADOTD contracts. It is required that, to the maximum extent possible, race-neutral means be used to achieve the DBE participation goals.

DBE PROGRAM

I. Definitions of Terms

The terms used in this program have the meanings defined in 49 C.F.R. §26.5. In the administration of its DBE Program, LADOTD will act in accordance with guidance and interpretations when issued by the United States Department of Transportation (USDOT) in accordance with 49 C.F.R. §26.9.

II. Objectives /Policy Statement (§§26.1, 26.23)

As a recipient of federal financial funding of the USDOT, the LADOTD has established a Disadvantaged Business Enterprise (DBE) Program as set forth herein and hereby provides its assurance that it will comply with the provisions of this program and the regulations of the USDOT as set forth in 49 C.F.R. Part 26.


The LADOTD is committed to the objectives of the DBE Program and its policy is to fully support and comply with 49 C.F.R. Part 26 and all other applicable statutes, regulations and guidelines of the USDOT. In order to achieve these goals, it is the policy of LADOTD to:

1. Ensure nondiscrimination in the award and administration of USDOT assisted contracts;
2. Provide a business environment in which DBEs can compete fairly for USDOT assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in USDOT assisted contracts; and
6. Assist the development of firms that can compete successfully in the market place outside the DBE Program.

The responsibility for the effective implementation is assigned to the Director of Compliance Programs, who is also designated as the DBE Liaison Officer (DBELO). The DBELO reports directly to the Deputy Secretary of LADOTD, and has full responsibility for developing, managing, and implementing the DBE program on a day-to-day basis, which includes providing guidance and oversight to the LADOTD highway and transit activities in regards to the DBE Program. The DBELO also has responsibility for ensuring that the technical assistance activities for DBEs are carried out; and for ensuring that information on available business opportunities is disseminated so that DBEs are provided an opportunity to bid on all federally assisted LADOTD contracts and other opportunities. This arrangement, however, does not preclude the DBELO from having direct, independent access to the LADOTD Secretary.

LADOTD has established a Certification Review Team to certify eligible DBEs as required by 49 C.F.R. Part 26 to participate in federally assisted contracts. Certified DBEs will be included in a DBE directory.

The DBE program and policy statement is available to all district administrators, district construction engineers, project engineers, and other Department officials on the agency website; calling for effective implementation and monitoring. The DBE program manual is available to the minority, female, non-minority, and business communities on the agency website or in bound form. The manual is also made available to all airport sponsors, political jurisdictions, and any other interested parties. The DBE program manual will be updated annually, if there are changes and will be made available via the Department's website or in bound form.

for 

Sherri H. LeBas

Date: 1/28/13

Secretary, Louisiana Department of Transportation and Development

III. Nondiscrimination (§26.7)

LADOTD will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 C.F.R. Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, LADOTD will not, directly or through contract or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

IV. Records LADOTD Will Keep and Report (§26.11)

Bidders List

As a means of determining the relative availability of ready, willing, and able DBEs, LADOTD will maintain a bidders' list that will include all firms that bid on prime contracts or quote subcontracts on USDOT financially assisted projects. The purpose of this requirement is to allow use of the bidder's list approach in calculating overall goals. The list will include both DBEs and non-DBEs. The list will be supplemented on a regular basis and will include the following:

- (1) firm name
- (2) firm address
- (3) firm's status as a DBE or non-DBE
- (4) the age of the firm
- (5) the annual gross receipts of the firm

All bidders will provide basic information that includes name of the firm, contact person, address, and e-mail or phone number of any subcontractor or supplier that submits a quote to them. A list of firms is provided on line, and only firms not already on this list need to be submitted. This will be used to determine all firms that are ready, willing, and able to perform work on projects financially assisted by the USDOT. LADOTD will follow up on a yearly basis to verify the information above and obtain additional information that includes the age of the firm and gross receipts.

Monitoring Payments to DBEs

LADOTD will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the LADOTD or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

V. Federal Financial Assistance Agreement Assurance (§26.13)

Each financial assistance agreement that LADOTD signs with a USDOT operating administration will include the following assurance:

“It is the policy of the DOTD that it shall not discriminate on the basis of race, color, national origin, or sex in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the US DOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq.).”

This statement is found in the attached Required Contract Provisions For DBE Participation In Federal Aid Construction Contracts, Part B.

In addition, to assure the compliance indicated above, LADOTD will require that each contract LADOTD signs with a sub-recipient or a contractor (and each subcontract the prime contractor signs with a subcontractor) includes the following assurance:

“The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LADOTD deems appropriate.”

VI. DBE Program Updates (§26.21)

LADOTD will continue to carry out this program until all funds from the USDOT financial assistance have been expended, and will provide to the USDOT updates representing significant changes in the program.

VII. LADOTD's Policy Concerning This DBE Program (§26.23)

The LADOTD is committed to the objectives of the DBE Program and it is their policy to fully support and comply with 49 C.F.R. Part 26 and all other applicable statutes, regulations, and guidelines of the United States Department of Transportation. It is the policy of LADOTD to provide a level playing field, to foster equal opportunity in all USDOT assisted contracts, to improve the flexibility of the DBE Program, to reduce the burdens on small businesses, and to achieve that amount of participation that would be obtained in a non-discriminatory market place. It is the policy of LADOTD that there will be no discrimination in the award and performance of federally assisted contracts on the basis of race, color, sex, or national origin.

VIII. DBE Liaison Officer (§26.25)

LADOTD has designated an employee within the Office of Civil Rights as the DBE Liaison Officer:

Compliance Programs Director
Louisiana Department of Transportation and Development
P.O. Box 94245
Baton Rouge, LA 70804-9245
Telephone: (225) 379-1382
Fax: (225) 379-1865

In that capacity, the Liaison Officer is responsible for implementing all aspects of the DBE program and ensuring that LADOTD complies with all provisions of 49 C.F.R. Part 26. The DBE Liaison Officer has direct, independent access to the Secretary of LADOTD concerning all DBE matters and will have adequate staff to implement, administer, and monitor the DBE Program.

The DBE Liaison Officer and staff are responsible for developing, implementing and monitoring the DBE program in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by the USDOT.
2. Identifies contracts and procurements so that DBE goals are included in solicitations and monitors results.
3. Analyzes program progress toward goal attainment and identifies ways to improve progress.
4. Participates in pre-bid meetings and advises the Deputy Secretary on DBE matters and achievement.
5. Participates with the DBE Over-Sight Committee to determine contractor compliance with good faith efforts.

6. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
7. Plans and participates in DBE training seminars.
8. Acts as liaison to the Uniform Certification Program in the State of Louisiana.
9. Provides outreach to DBEs and community organizations to advise them of opportunities.
10. Maintains the updated LADOTD directory on certified DBEs.
11. And such other duties as imposed by the Secretary of LADOTD.

As part of LADOTD's policy to support and encourage the DBE Program, the Liaison Officer will make available a copy of the DBE Policy and the DBE Directory to all LADOTD Districts and Divisions, to all highway construction contractors of the State of Louisiana, to manufacturers of products used in the highway construction industry, and public transit contractors within the State of Louisiana, to all contractors listed on LADOTD's "Notice to Bidders," to all certified DBEs in Louisiana, to all Planning Districts within the State of Louisiana, to all municipalities and counties of this state, to various associations that represents contractors in the highway construction and public transit industry, and upon request, to any other agency, business, or individual. These documents may be obtained via our website at www.dotd.la.gov.

IX. DBE Financial Institutions (§26.27)

It is the policy of LADOTD to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions and to encourage prime contractors on USDOT assisted contracts to make use of these institutions. LADOTD has thoroughly investigated the full extent of services offered by banks owned and controlled by socially and economically disadvantaged individuals in the community. Based on a recent search, there is currently one minority owned and controlled bank in the State of Louisiana:

Liberty Bank & Trust Co., 6600 Plaza Dr., Suite 600, New Orleans, LA 70127

LADOTD will continue to investigate any new DBE banks established in Louisiana and use their services when feasible. LADOTD will provide the following notification to each prime contractor who will perform on a USDOT-assisted project: "The contractor is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial." This statement is found in the attached Required Contract Provisions For DBE Participation In Federal Aid Construction Contracts, Part C.

X. Prompt Payment Requirements (§26.29)

LADOTD will require that the following clause be included in each USDOT-assisted prime contract:

"To ensure that the obligations under subcontracts awarded to subcontractors are met, the LADOTD will review the contractor's efforts to promptly pay all subcontractors for work performed in accordance with the executed subcontracts. LADOTD does not hold retainage from prime contractors, and the contractor may not hold retainage from subcontractors. The contractor shall pay subcontractors and suppliers, including DBEs, their respective subcontract amount within 14 calendar days after the contractor receives payment from LADOTD for the items satisfactorily performed by the subcontractors in accordance with Louisiana Revised Statute 9:2784. The contractor shall provide the subcontractors with a full accounting to include quantities paid and deductions made from the partial payment at the time the check is delivered.

Delay or postponement of payment to the subcontractor may be imposed by the contractor only when there is evidence that the subcontractor has failed to pay its labor force and suppliers for materials received and used on the project. Delay or postponement of payment must have written approval by the Project Engineer. Failure to pay subcontractors promptly shall constitute a breach of contract and, after notification by the LADOTD, may result in (1) a deduction from the contract funds due or to become due the contractor, (2) disqualification of a contractor as non-responsive, or (3) any other such remedy under the contract as LADOTD deems appropriate. All subcontracting agreements made by the contractor shall include the prompt payment to subcontractor provisions as incorporated in the contract. All disputes between contractors and subcontractors relating to payment of completed work shall be referred to the DBE Oversight Committee. Members of the DBE Oversight Committee are: the Contract Services Administrator; the LADOTD Compliance Programs Director; and a FHWA Division Representative."

This statement is found in the attached Required Contract Provisions For DBE Participation In Federal Aid Construction Contracts, Part H (8).

XI. DBE Directory (§26.31)

To assist interested firms in identifying certified DBEs, LADOTD presently maintains the Louisiana Unified Certification Program (UCP) DBE Directory that identifies all firms certified as being eligible to participate as DBEs in LADOTD's DBE Program. The listing for each firm includes its address, phone number, and the types of work the firms are certified to perform as a DBE.

LADOTD revises its Directory monthly, and makes updated information available to contractors and the public on our LADOTD website (www.DOTD.la.gov), or by contacting LADOTD's Compliance Programs Section, (225) 379-1382. LADOTD has adopted and does participate in a Unified Certification Program as described in 49 C.F.R. §26.81. A Louisiana UCP DBE Application form is also available on the LADOTD website or a paper copy may be requested from Compliance Programs at the phone number above. A copy of the application is attached.

XII. Over Concentration of DBEs in Certain Types of Work (§26.33)

LADOTD through its Supportive Services Consultant provided surveys to all certified DBE's in an order to gather current information on our DBE's. This included information relative to overconcentration. This survey is continually disseminated to our newly certified DBE's through the "Welcome Package" developed by the consultant. The information derived from these surveys is compiled by the consultant and submitted through progress reports to LADOTD for review. LADOTD has not determined that DBE firms are so over-concentrated in a certain type of work area as to unduly burden the opportunity of non-DBE firms in that type of work. These reports will be monitored on a semi-annually basis and should over-concentration be identified LADOTD will use appropriate business development strategies to increase expertise of those DBE firms in additional work items. LADOTD will submit determination factors and solutions for over concentration to its operating administration for approval, and no corrective action will be used until they are approved by the USDOT. If such approval is obtained, the measures will become part of LADOTD's DBE Program. It is not the intention of LADOTD to establish or use a mentor-protégé program at this time.

XIII. Monitoring and Enforcement Mechanisms (§26.37)

LADOTD implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the USDOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq).

One of the main purposes of 49 C.F.R. Part 26 is to insure that DBEs are actually performing the work committed to them in the process of awarding the contract to the

prime contractor. To achieve that objective, LADOTD will measure payments actually made to DBEs as well as commitments made prior to award of federally assisted contracts. Credit toward DBE goals will be given to contractors only when payments are made to LA UCP certified DBEs. LADOTD will also keep a running tally on each federally assisted contract of the extent to which performance matches the commitment made by the prime contractor. This information is currently maintained in a LADOTD computer database system, which tracks both monthly and year-to-date payments. However, in 2012 LADOTD begins the fifteen (15) month implementation of the new program Civil Rights and Labor Management System (CRLMS). Once implemented, this system is expected to provide tracking of all information required by USDOT.

The contractor shall submit monthly reports on DBE payments. At the conclusion of each estimate period, the contractor shall submit the Form CP-1A, CONTRACTORS MONTHLY DBE PARTICIPATION, to the project engineer to verify that the DBEs performed the listed work during the previous month's reporting period, and the amount paid is commensurate with the commitment amount. These reports will be required until all DBE subcontracting activity is complete or the DBE Goal has been achieved. Failure to submit the required reports will result in the withholding payments to the contractor until the reports are submitted. Reports are required regardless of whether or not DBE activity has occurred in the monthly reporting period.

Upon completion of all DBE participation, the contractor shall submit the Form CP-2A, DBE FINAL REPORT, to LADOTD Compliance Programs Section. This form details all DBE subcontractor payments. When the actual amount paid to DBE is less than the award amount, a complete explanation is required by Compliance Programs. If the DBE goal is not met and the explanation submitted does not justify waiving the unmet portion of the goal, an amount equal to the unmet portion will be withheld from payment due to the contractor. All payments due subcontractors which affect DBE goal attainment shall be made by the contractor before LADOTD releases the payment and performance bonds.

LADOTD reserves the right to conduct an audit of DBE participation prior to processing the final estimate and at any time during the work.

In order for the prime contractor to receive credit toward the contract goal, the DBE must perform a commercially useful function (CUF) as outlined in 49 C.F.R., Part 26.55. The Project Engineer or inspector on all Federal Aid projects must complete a (CUF) review on each DBE working on the project, even if the project has no DBE goal or the DBE was not listed on the CS-6AAA. The Project Engineer or inspector must notify the Compliance Programs Office if it appears that the DBE may not be performing a CUF. An investigation and site visit will be conducted by a Compliance Programs Specialist to determine the facts. Periodic, random or scheduled on site visits to monitor CUF performance are also conducted by Compliance Programs. The Prime contractor should take corrective action when the review reveals any negative evaluations. DBE credit may be disallowed and/or other sanctions imposed if it is determined the DBE firm

is not performing a CUF. See attached Required Contract Provisions For DBE Participation In Federal Aid Construction Contracts.

XIV. Quotas (§26.43)

LADOTD does not use quotas in any way in the administration of this DBE program.

XV. Establishment of LADOTD's Goals for DBE Participation (§26.45)

LADOTD is required to establish overall state goals for each agency of USDOT for the utilization of DBEs on USDOT assisted contracts as described in §26.45. The state goal is expressed as a percentage of the total payments to prime contractors and subcontractors performing on USDOT assisted contracts. This overall goal is based on evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on USDOT assisted contracts.

The USDOT requires a two-step process for setting the annual DBE goal. The first step is to establish a base figure for the relative availability of DBEs. The second step is to adjust the base figure in order to determine a realistic overall goal. LADOTD maintains a comprehensive bidders list that includes all firms who have shown an interest in bidding as contractors or subcontractors on federally assisted projects. Public consultation forums are held to give all interested parties an opportunity to pose questions and raise issues for discussion, as well as being actively involved in our goal setting process.

In setting the base figure, LADOTD will rely on information with respect to the relative number of bids or quotes submitted by DBEs on past USDOT assisted prime contracts or subcontracts over the federal fiscal year. At a minimum, the relative number of DBE bids or quotes will be examined at the following level of detail: prime and subcontracts, trucking and supplier contracts, engineering design contracts and subcontracts, consultant and other professional services contracts and subcontracts. Only DBEs with current certification will be counted as available DBEs. An overall base figure will be determined by weighing DBE availability in these work segments by the amount of contract dollars going to each segment on past USDOT assisted contracts.

In adjusting the base figure, LADOTD will consider, at a minimum, the following: past utilization of DBEs on state-funded contracts, past utilization of DBEs on USDOT assisted contracts, any future changes in the volume and distribution of contract dollars by segment of work, potential DBE contractors who may not qualify for recertification and other factors as outlined in 49 CFR Part 26.

LADOTD will, to the fullest extent possible, meet its overall goal through race-neutral means by facilitating DBE participation. Race neutral measures may include designing the contracting processes to encourage small business participation, providing assistance in obtaining bonding and financing; providing technical assistance, widely

distributing information on contract opportunities and available firms, implementing in-house supportive services as well as contracting with outside professional service providers to enhance business management of small businesses.

When race neutral measures are not totally effective in meeting the annual goal, LADOTD will institute the race conscious measure of establishing contract goals on specific prime contracts with subcontracting possibilities (opportunities), which the bidder must meet or exceed or must demonstrate that he/she could not meet despite best efforts.

LADOTD will establish a three year overall DBE goal for each agency as required. The goal will be submitted to the Federal Highway Administration or appropriate agency by August 1 every three (3) years for their review.

A notice announcing the proposed goal(s) and rationale will be published and made available for inspection during normal business hours in the first floor lobby of LADOTD's headquarters building and on our website for 30 days following the date of the notice. Notice will also be given to the public that comments on the state goal will be accepted for 45 days from the date of notice. The notice will include addresses to which comments may be sent. The notice will be published in general circulation media and available minority focused media. Public meetings will be conducted in two regions of the state, and overall DBE goal(s) may be adjusted based on public meetings. If adjustments are made, the goal will be republished and the public meetings will be held again.

The Department's goal is designed to achieve a consistency of DBE involvement throughout the state rather than in a selected geographic concentration, throughout the year, and according to the availability of DBEs to respond to solicitation.

The assignment of contract goals, the commitments of bidders to utilize DBEs, and the contractor's fulfillment of goal commitments are carefully monitored by the Compliance Programs Section to assess progress toward goal achievement and, if necessary, to modify procedures and/or goal-setting methodology.

XVI. Means LADOTD Will Use to Meet its Overall Goals (§26.51)

LADOTD will meet the maximum feasible portion of its overall goal by using race-neutral means to facilitate DBE participation. For the purposes of this program, race-neutral includes gender neutrality. Race and gender-neutral DBE participation includes any situation in which a DBE is awarded a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, and/or did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs, and other small businesses, participation;
2. Providing technical assistance and other services;
3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
4. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
5. Providing services to help DBEs, and other small businesses, improve long-term development;
6. Ensuring distribution of the LADOTD DBE Directory to the widest feasible universe of potential prime contractors;
7. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology.

LADOTD will establish contract goals to meet any portion of its overall goal it does not project being able to meet using race-neutral means.

The following provisions apply to the use of contract goals:

1. LADOTD will establish contract goals only for those USDOT-assisted contracts that have subcontracting possibilities.
2. LADOTD may not set a contract goal on every USDOT-assisted contract. However, over the period covered by its overall goal, LADOTD will set contract goals so that they will cumulatively result in meeting any portion of its overall goal it does not project being able to meet through the use of race-neutral means.
3. LADOTD's contract goals will provide for participation by all certified DBEs and will not be subdivided into group-specific goals.

To ensure that its DBE Program continues to be narrowly tailored to overcome the effects of discrimination, LADOTD will adjust the use of contract goals in accordance with the procedures and examples as set forth in 49 C.F.R. 26.51.

XVII. Good Faith Efforts (§26.53)

When LADOTD has established a DBE contract goal, it will award the contract only to a bidder who makes good faith efforts to meet it. LADOTD will determine that a bidder has made good faith efforts if the bidder does either of the following things:

1. Documents that it has obtained enough DBE participation to meet the goal; **or**
2. Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder does document adequate good faith efforts, LADOTD will not deny award of the contract on the basis that the bidder failed to meet the goal.
3. If the bidder does not meet the contract goal, the documentation of all good faith efforts must be submitted along with the CS-6AAA, Bidders Assurance of DBE Participation, within 10 working days after the letting. Any decision as to the adequacy of good faith effort will be considered in accordance with the guidance outlined in Appendix A to 49 C.F.R. Part 26 --Guidance Concerning Good Faith Efforts for Determining the Adequacy of a Bidder's Good Faith Efforts.

Information to be Submitted

Construction Contracts

All apparent low responsive bidder(s) will be required to submit the following information to LADOTD within ten (10) working days of the opening of the bid and prior to LADOTD committing to the award of the contract:

1. Names and contact information of DBE firms that will participate in the contract;
2. Description of the work that each DBE will perform;
3. Dollar amount of the participation of each DBE firm participating;

The CS-6AAA with signatures of the prime contractor and the DBE firm serves as written documentation of the bidder's commitment to use a DBE subcontractor to meet a contract goal. It also is further verification that the DBE subcontractor is aware of the prime contractor's commitment to use the firm toward a DBE contract goal.

These provisions are applicable to all bidders including DBEs. Since prime contractors, including DBEs are required to perform at least 50 percent of the work of the contract, all work to be performed by the DBE prime may be listed on the CS-6AAA provided performance is in accordance with the terms of the contract, normal industry practices, and the LADOTD DBE Program. When DBE prime contractors sublet any portion of the contract, they shall comply with provisions regarding contractor and subcontractor relationships. LADOTD will count toward the goal only work a DBE prime contractor actually performs, or any work performed by other certified DBE subcontractors, provided a commercially useful function is performed. This calculation is tracked electronically by the LADOTD computer system.

If the contract goal is not met, the prime contractor must provide documentation of good faith efforts at the same time the CS-6AAA is submitted. LADOTD will make sure all information is complete, accurate and demonstrates adequate good faith efforts before

awarding a contract to the bidder. In order for firms to be deemed eligible to be listed on the CS-6AAA or good faith efforts, they must have been certified in the appropriate items at the time the construction project is advertised.

If the good faith efforts submitted with the bid are deemed insufficient, the Compliance Programs Director will ask the Contract Services Administrator to reject the bid. If he rejects the bid, the decision is subject to an appeal by the bidder. The request shall be made in writing and should provide documentation or arguments concerning the issue of adequate good faith efforts. The DBE Oversight Committee will hear the appeal. The bidder will have the opportunity to meet in person with the Committee to discuss the issues leading to bid rejection. An attorney who is versed in DBE matters will be available to provide input, and a final recommendation will be made to the Reconsideration Official by the DBE Oversight Committee.

Administrative Reconsideration

The Reconsideration Official shall be LADOTD's Chief Engineer, who will not have played any role in the original determination that the bidder did not document sufficient good faith efforts. The bidder will be provided a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The Reconsideration Official's decision is not administratively appealable to the USDOT.

Good Faith Efforts when a DBE is replaced on a contract

LADOTD will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. LADOTD will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, LADOTD will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our DBE Contract Administration Manager will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, LADOTD may issue a termination for default proceeding.

Engineering Consultant Contracts

The Louisiana Department of Transportation's Consultant Contract Services Section is using the following procedure to review contracts that are being advertised for applicability of goals.

The Goal Setting Process

Contracts that are greater than or equal to \$250,000 are reviewed for goals. The work types with percentages are identified by the Project Manager and the Compliance Section gathers the number of available DBE firm/firms with specialties in the identified work categories in the project area. All pertinent information is presented to the evaluation committee, who will discuss the projects, and set the goal for the contract. The matrix for initial project selection will include the following:

- DBE available by area
- DBE specialties
- Breakdown of project by percentage of work type
- Cost of project

The Engineering DBE Goal Committee is composed of the Consultant Contract Engineer, a Compliance Section representative, a representative from Design / Project Manager, a FHWA Area Engineer, and the Project Development Division Chief. The Consultant Contract Engineer will serve as chairperson, and Compliance Programs will provide information on DBE firms and support goal while the FHWA Area Engineer support provides input of area they oversee as it relates to the DBE goal. The representative from Design / Project Manager is rotational (project specific to provide detailed breakdown of possible tasks to be performed by a DBE) and the Project Development Division Chief provides knowledge, consistency, and guidance for project development.

Eligibility

In order for small disadvantaged firms, including those owned by minorities and women, to participate in the DBE program they must apply for and receive certification as a DBE. The firms should contact the LADOTD Compliance Section if further information on certification is required. A complete list of those firms registered as DBEs with their specialties can be found on the LADOTD website, Construction Letting Information page, or by contacting the Consultant Contracts Section at (225) 379-1989.

Engineering DBE Program Expectations

The prime consultant must demonstrate the goal will be met or exceeded, and submit the name of the DBE firm(s) they intend to use to meet the goal or submit documentation of good faith efforts to meet the goal.

Good Faith Efforts

The prime consultant should provide written notice to all certified DBEs who have capabilities pertinent to the work of the contract that their interest in the contract is being solicited. This notice shall be in sufficient time to allow the DBEs to respond to the

written solicitation and should include follow-up of initial solicitations of interest by contacting DBEs to determine with certainty whether they were interested. Selecting portions of the work to be performed by DBEs will increase the likelihood of the DBE goals being achieved. This may include, breaking down contracts into economically feasible units to facilitate DBE participation. The prime should provide interested DBEs with adequate information about the scope and requirements of the contract. Negotiations with interested DBEs should be documented and include the names, addresses, and telephone numbers of the DBEs considered, and should also include a description of the information provided, and a statement as to why additional agreements could not be reached for DBEs to perform the work. A prime consultant cannot reject DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.

Engineering DBE Program Commercially Useful Function

A DBE's role cannot be limited to that of an extra participant in a project through which funds are passed in order to obtain the appearance of DBE participation. When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption. DBEs are required to furnish all supervision and labor necessary to perform tasks prescribed in the contract, and must manage the work that has been contracted including scheduling work operations, preparing and submitting payrolls and all required reports and forms, hiring and firing employees including supervisory positions. The DBE must perform the work of the contract with his/her own forces, with no formal or informal constraints placed upon the DBE by the prime consultant to require the DBE to use employees of the prime consultant or any other consulting firm to perform the work. Use by a DBE of personnel from other consultants will not satisfy the requirement.

Replacement of DBE

A prime cannot terminate a DBE sub-consultant and self-perform the work without prior written approval from Compliance Programs and Contract Services. DBEs can be replaced only if they are unable or unwilling to perform. If it appears that the DBE goal cannot be achieved, the prime consultant shall immediately notify Compliance Programs and Consultant Contract Services, and must make good faith efforts to find a replacement for the DBE. Department approved revisions to the contract which eliminate work of the DBE do not require replacement. The required good faith efforts are essentially the same as those required prior to award of the contract, such as written notice, personal contact, follow up, negotiations, etc. Good faith efforts must be used to try to meet at least a portion of the goal should be documented and submitted to Compliance Programs and the Consultant Contract Services Section for evaluation.

Replacement Procedure

The Compliance Programs Office will review the quality, quantity, and intensity of the prime consultant's efforts. Those that are merely for the record, without personal contacts, cannot be approved. If the consultant is able to demonstrate adequate good-faith efforts, LADOTD will recommend that the remainder of the goal be waived. The FHWA must concur in any decision made by LADOTD to reduce or waive a contract goal.

XVIII. Counting DBE Participation (§26.55)

LADOTD will count DBE participation toward overall and contract goals as provided in 49 C.F.R. §26.55, and outlined in Attachment 1.

XIX. Certification (§26.61 – §26.91)

All LADOTD Certifications will follow the procedures outlined in the Louisiana Unified Certification Program (LAUCP) (Attachment 3) which incorporates the federal guidelines 49 CFR Part 26 Subpart D – Certification Standards and Subpart E – Certification Procedures.

Process

Certification Steps

- LADOTD Compliance Programs Office receives application with supporting documentation from prospective DBE firm.
- DBE Certification Specialist reviews application and all supporting documentation for completeness.
- If application is not complete, Applicant Firm is notified in writing to provide missing documents.
- If application is complete, the DBE Certification Specialist performs an onsite review of in-state firms or requests a copy of an onsite review from the home state of out-of-state firms.
- Following the onsite review, a project site visit is performed when feasible.
- A report is written and presented to the DBE Certification Review Team. There are five members of the Review Team and each has knowledge of the certification requirements.
- Firm receives written notification of the committee's decision to certify or deny certification to the firm.
- If the firm is denied certification, specific reasons for denial are provided in writing along with appeal rights to the U.S. Department of Transportation.
- If the firm is approved, it is placed on the LAUCP DBE Directory.

In the event LADOTD proposes to remove a DBE's certification, the procedures will be consistent with §26.87.

The DBE Directory is posted to the Internet at the same time that the Advance Notice to Contractors is posted. Only those firms certified at that time, which is approximately 5 weeks prior to each bid letting, can be used to meet the goal on those projects for that letting. For information about the certification process or to apply for certification, firms should access the UCP application on the LADOTD or contact the Compliance Programs Office.

Denial of Certification

When a firm is denied certification or the firm's eligibility is removed, that firm must wait twelve months before it is eligible to reapply for certification. This twelve-month period commences on the date of the denial letter or the removal of eligibility letter.

Certification Appeals

Any firm or complainant may appeal the decision in a certification matter directly to USDOT. Appeals must be received within 90 days of denial and are sent to:

Department of Transportation
Office of Civil Rights
1200 New Jersey Ave. SE, W-35
Washington, DC 20590

LADOTD will promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for our USDOT assisted contracting (e.g., certifies a firm when the USDOT has determined that a denial of its application was erroneous).

"No Change" Affidavits and Notices of Change

All DBEs will be required to provide a written affidavit of any change in its circumstances, affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 C.F.R. Part 26 or of any material changes in the information provided with the firm's application for certification.

All owners of all certified DBEs are required to submit on the anniversary date of their certification, a "no change" affidavit meeting the requirements of §26.83(j). The text of this affidavit is the following:

"I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 C.F.R. Part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the Sponsor under §26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$22,410,000."

The DBE is required to submit documentation of the firm's size and gross receipts with this affidavit. This includes complete copies of individual and company federal tax returns and a current personal net worth statement (form OMB Approval No. 3245-

0188). If a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies and should be submitted within 30 days of the change to LADOTD's DBE Certification Manager.

Personal Net Worth

All disadvantaged owners or applicants and currently certified DBEs, who are eligible under Part 26, are required to submit a statement of personal net worth.

The Personal Net Worth form and the documentation that respondents must submit with it are included in Attachment 4.

XX. Information Collection and Reporting

Reporting to USDOT

LADOTD will report DBE participation to the Federal Highway Administration, the Federal Transit Authority, and where appropriate, to the Federal Aviation Administration semi-annually by submitting The Uniform Report of DBE Awards or Commitments and Payments for use by USDOT recipients.

Confidentiality

LADOTD will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. State law LSA-R.S. 44:1 Et Seq. addresses the disclosure of public information to third parties. A Public Information Request Form is available to the public on the LADOTD website. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter, as required by the June 28, 1999, Technical Amendment to 49 C.F.R. Part 26.

XXI. FOSTERING SMALL BUSINESS PARTICIPATION (§26.39)

In accordance with Federal Regulation 49CFR26.39, Fostering Small Business Participation, the Louisiana Department of Transportation and Development (LADOTD) has developed the following plan to facilitate competition by small business concerns in contracting opportunities with LADOTD. This plan will require certification of small businesses to better ensure a level playing field.

Key Definitions

Economically Disadvantaged – For a business owner to be considered economically disadvantaged his/her Personal Net Worth (PNW), excluding the primary residence and ownership interest in the applicant business, cannot exceed 1.32 million in accordance with Federal Regulation 49CFR26.67.

Small Business Concern - ...a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts of 22.4 million as specified in Federal Regulation 49CFR26.65(b).

Small Business Enterprise (SBE) – This refers to a for-profit business that is at least 51% owned by one or more individuals who are economically disadvantaged, and whose company meets the small business concern definition.

Method To Facilitate Competition

Currently the LADOTD establishes DBE contract goals on US DOT assisted contracts over \$500,000. In accordance with Federal Regulation 49CFR26.39, to facilitate SBE competition, LADOTD will establish SBE goals on FHWA assisted contracts that are between \$250,000 and \$500,000. The method used to establish SBE goals will be the same process followed in establishing DBE goals. A DBE/SBE Goal Committee will review and evaluate the scope of work and location of each project. The directory of SBE certified firms will be reviewed to determine availability and a goal will be assigned should it be determined the project can support one. LADOTD will advertise and post on our website each project and specify the SBE goal percentage. For each project that is assigned a SBE goal, contract specifications will be developed and included as part of the contract. A monitoring and tracking process for SBE's awarded SBE goal projects, as a prime or a subcontractor, will be similar to the process LADOTD utilizes for DBE monitoring and tracking.

Outreach

Will ensure easy and direct access to the SBE program information through website and other electronic and print media.

Promote awareness of the SBE program at trade fairs, workshops, conferences, etc.

- Forge partnerships with industry groups, such as the Louisiana Associated General Contractors, to assist with the dissemination of information on opportunities for small businesses.

Certification

LADOTD Compliance Programs Office, Certification Unit will certify businesses as SBE's in accordance with Federal Regulation 49CFR26.65 through an application process. The Louisiana Unified Certification Program (LAUCP) application for DBE certification will be revised to exclude any reference to and/or presumption of social disadvantage based on race and/or gender and used as the SBE application. Additionally, SBE certification will include provisions of Federal Regulation 49CFR26.67(2)(i) which establishes a Personal Net Worth threshold of 1.32 million for the individual owner of the business seeking certification. The SBE application process will be similar to the procedures for the DBE application process as it relates to documentation requirements necessary to determine the applicable size standards. An annual affidavit, with supporting documents, will be required each year for certified SBE's to verify continued eligibility.

Directory

A separate directory of SBE firms will be maintained and made available on LADOTD's website. All available contact information will be provided on each certified SBE. All certified DBE's in the LAUCP have already been determined they meet the economically disadvantaged and small business concern definitions so each certified DBE will automatically be certified as SBE's.

Implementation Schedule

First 7 Months of Implementation

Revise the LAUCP DBE application and develop the application for SBE certification.
Revise and develop the Annual Affidavit for continued SBE certification.

Establish SBE contract specifications to be included in future contracts with a SBE goal.

Begin outreach efforts to disseminate information on the SBE Program and contracting opportunities with LADOTD. (This effort will continue beyond implementation)

Request assistance from IT to develop the database for the SBE Directory and attach a link on website.

Develop with assistance of IT a monitoring and tracking process for SBE goal projects.

Begin processing SBE applications as they are received.

Last Month of Implementation

Have a SBE Directory of certified SBE's.

Begin setting goals on FHWA assisted projects between \$250,000 and \$500,000.

Monitor and track SBE participation.

DISADVANTAGED BUSINESS ENTERPRISE/ SMALL BUSINESS ELEMENT REQUIREMENTS FOR FTA FUNDED PROJECTS:

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises, including small businesses as defined in Title 49, Code of Federal Regulations, Part 26 (49 CFR 26), shall be afforded reasonable opportunity to participate in the performance of projects financed in whole or in part with federal funds, consequently, the DBE requirements of 49 CFR 26 apply to this project.

The Grantee agrees to comply with section 1101(b) of TEA-21, 23 U.S.C. § 101 note, and U.S. Department of Transportation regulations, "Participation by Disadvantaged Business Enterprises including small businesses in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

The Grantee agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Grantee of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Grantee agrees to ensure that disadvantaged business enterprises including small businesses, as defined in 49 CFR be afforded reasonable opportunity to participate in the performance of this project and any subcontracts that may be let. In this regard, the Grantee shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that disadvantaged business enterprises have reasonable opportunity to compete for and perform services relating to this project. Failure by the grantee to carry out these requirements is a material breach of the Agreement which may result in the termination of this Agreement or such other remedy as the DOTD deems appropriate. After proper notification by DOTD, immediate remedial action shall be taken by the Grantee as deemed appropriate by DOTD or the agreement shall be terminated. The option will rest with the DOTD.

The above requirements shall be incorporated by reference in all subcontracts entered into by the Grantee.

Verification Process for TVMS:

Below is the updated TVM Certification language used in FTA-funded transit vehicle procurements:

Section 26.49 Transit Vehicle Manufacturers

The DOTD and the Office of State Purchasing will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the DOTD and Office of State Purchasing may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

The procedures will be used to implement vehicle procurement for FTA Funded contracts:

FTA Vehicle Procurement Procedures and Checklist		
Date	Process	Status
June 1	Review and revise vehicle specifications and FTA Certifications	
June 15	Review current list of TVMs on State contract and current TVMs listed on FTA's website to ensure that each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR Part 26.49 in order to be eligible to bid on federally-funded contracts.	
June 20	Submit vehicle specifications to the Louisiana Division of Administration Office of State Purchasing for review and approval and provide a list of approved TVMs. <u>Because FTA's listing of TVMs can change frequently, this list will be reviewed by DOTD and Office of State Purchasing prior to award of each contract to reflect actual status of TVM DBE goals.</u> http://www.fta.dot.gov/civilrights/12891.html	

A. Required Contract Provisions

A. Contract Assurance

To ensure that all FTA assisted contracts and subcontracts include the correct language, the Public Transportation Section will review the FTA website for applicable clauses annually and monitor the website periodically prior to executing any agreements.

In addition to the above, the timeline below will be used to monitor and track contracts issued by LA DOTD and its sub-recipients to ensure that the below clause is included in every FTA-assisted contract and subcontract will be inserted in the DOTD DBE Program.

Contract Assurance Timeline	
Date	Process
July	Review FTA Website for updates to the contract assurance clause found in 26.13 of the DBE regulations.
August-September	Develop grant applications for Federal Assistance and include a sample contract that contains the proper contract assurance clause found in 26.13 of the DBE regulations. Post grant applications including FTA applicable contract clauses on the website.
November	Conduct a session at the Annual Public Transit Conference and provide potential applicants with training on the grant application and FTA contract assurance clause found in 26.13 of the DBE Regulations.
February-March	Review grant applications and select projects
April - June	Prior to signing each contract with a contractor (and each subcontract the prime contractor signs with a subcontractor) DOTD will ensure that the contract includes the contract assurance clause found in 26.13 of the DBE regulations.
Annually	Conduct site visits to review sub-recipients contract files.

The contracts or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in termination of this contract or such other remedy as the recipient deems appropriate.

B. Prompt Payment

To ensure that all FTA assisted contracts and subcontracts include the Prompt Payment clauses are included in agreements, the Public Transportation Section will review all contracts and subcontracts annually prior to executing any agreements. The Public Transportation Staff will maintain a compliant log to document contractor's performance.

The Public Transportation Section will include the following clause in each FTA assisted prime contract and it will apply to payments made to both DBE and non-DBE subcontractors:

Subcontractor and Supplier Payments: *The prime contractor agrees to pay each subcontractor under this prime contract within fourteen (14) calendar days after receiving payment from LA DOTD for amounts previously invoiced for work performed or materials furnished under the Contract. Failure to pay subcontractors within fourteen (14) days will be considered in the review of the Contractor's performance of the contract and may result in the withholding of payment to the Contractor.*

The LA DOTD has reviewed the DBE Program Plan and has updated the plan to include the following retainage policy that reflects the Public Transportation functions.

Retainage: *The Contractor agrees further to return retainage payments to each subcontractor within fourteen (14) days after the subcontractor's work is satisfactory completed.*

Below is a scheduled plan to ensure that the return of retainage of current contracts will be managed as follows:

Retainage Procedures:

1. DOTD Program Manager monitor's the contract payments and record amount paid and the amount of retainage for each invoice received. The amount of retainage is verified, tracked, monitored and recorded in the payment log for each subcontractor.
2. Following the end of the contract period, the DOTD Audit Division performs an audit of contract payments to ensure compliance.
3. Within 14 days after the work is satisfactorily completed, the contractor agrees to return retainage payments for each subcontractor.

The current consultant services contract expires February 28, 2013. The DOTD has elected not withhold retainage in future contracts. The DOTD has issued a new Request for Proposal that does not contain the Retainage Clause.

<http://webmail.dotd.louisiana.gov/agrestat.nsf/WebAdvertisements?OpenPage>

C. Legal Remedies

The LA DOTD will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. The LA DOTD also will consider similar action under

our own legal authorities, including responsibility determinations in future contracts. This Legal Remedy will be included in the LADOTD DBE Program.

Legal Remedies – FTA funded Contracts and Subcontracts	
July	Review FTA Website for updates to 49 CFR Part 26.37
August-September	Develop grant applications for Federal Assistance and include a sample contract that contains the requirements for legal remedies. Post grant applications including FTA applicable contract clauses on the website.
November	Conduct a session at the Annual Public Transit Conference and provide potential applicants with training on the grant application and FTA contract requirements for legal remedies.
February-March	Review grant applications and select projects
April – June	Prior to signing each contract with a contractor (and each subcontract the prime contractor signs with a subcontractor) DOTD will ensure that the contract includes the contract requirements for legal remedies.
Annually	Conduct site visits to review sub-recipients contract files to ensure that legal remedies are included at all FTA-funded subcontracts.

C. Reporting

The LA DOTD revised the State Management Plan to reflect the following timeline for ensuring accurate completion of DBE reports in TEAM. All reports prior to 2011 were resubmitted in TEAM.

DBE Activity - Timeline	
By Dec. 10 th , March 10 th , June 10 th , Sept. 10 th	Send request for DBE activities to Transit Agencies
By January 1 st , April 1 st , July 1 st , October 1 st	Review and compile DBE activities for all Transit Agencies
By January 10 th , April 10 th , July 10 th , Oct. 10 th	Submit DBE activities quarterly in TEAM for ARRA Projects
By June 1 st and December 1st	Submit DBE activities semi-annually in TEAM for all FTA Projects

ATTACHMENT 1

REQUIRED CONTRACT PROVISIONS FOR DBE PARTICIPATION IN FEDERAL AID CONSTRUCTION CONTRACTS

(DBE GOAL PROJECTS)

LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

REQUIRED CONTRACT PROVISIONS FOR
DBE PARTICIPATION IN FEDERAL AID CONSTRUCTION CONTRACTS
(DBE GOAL PROJECT)

A. AUTHORITY AND DIRECTIVE: The Code of Federal Regulations, Title 49, Part 26 (49 CFR Part 26) as amended and the Louisiana Department of Transportation and Development's (DOTD) Disadvantaged Business Enterprise (DBE) Program are hereby made a part of and incorporated by this reference into this contract. Copies of these documents are available, upon request, from DOTD Compliance Programs Office, P. O. Box 94245, Baton Rouge, LA 70804-9245.

B. POLICY: It is the policy of the DOTD that it shall not discriminate on the basis of race, color, national origin, or sex in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the US DOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq.).

C. DBE OBLIGATION: The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the DOTD deems appropriate.

The preceding policy and DBE obligation shall apply to this contract and shall be included in the requirements of any subcontract. Failure to carry out the requirements set forth therein shall constitute a breach of contract and, after notification by DOTD, may result in termination of the contract, a deduction from the contract funds due or to become due the contractor or other such remedy as DOTD deems appropriate. The contractor is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial. The term DBE is inclusive of women business enterprises (WBE) and all obligations applicable to DBE shall apply to firms certified and listed as WBE.

D. FAILURE TO COMPLY WITH DBE REQUIREMENTS: All contractors and subcontractors are hereby advised that failure to carry out the requirements set forth above shall constitute a breach of contract and, after notification by DOTD may result in rejection of the bid; termination of the contract; a deduction from the contract funds due or to become due the contractor; or other such remedy as DOTD deems appropriate. Failure to comply with the DBE requirements shall include but not be limited to failure to meet the established goal and/or failure to submit documentation of good faith efforts; failure to exert a reasonable good faith effort (as determined by DOTD) to meet established goals; and failure to realize the DBE participation set forth on approved Form CS-6AAA and attachments. Failure to submit Form CS-6AAA and attachments and/or reasonable good faith efforts' documentation within the specified time requirements will result in the Department taking the actions specified in Heading G(6) below. The utilization of DBE is in addition to all other equal opportunity requirements of the contract. The contractor shall include the provisions in Sections B, C and D of these provisions in subcontracts so that such provisions will be binding upon each subcontractor, regular dealer, manufacturer, consultant, or service agency.

E. ELIGIBILITY OF DBE: The DOTD has included as part of the solicitation of bids a current list containing the names of firms that have been certified as eligible to participate as DBE on US DOT assisted contracts. This list is not an endorsement of the quality of performance of the firm but is simply an acknowledgment of the firm's

eligibility as a DBE. This list indicates the project numbers and letting date for which this list is effective. Only DBE listed on this list may be utilized to meet the established DBE goal for these projects.

F. COUNTING DBE PARTICIPATION TOWARD DBE GOALS: DBE participation toward attainment of the goal will be credited on the basis of total subcontract prices agreed to between the contractor and subcontractors for the contract items or portions of items being sublet as reflected on Form CS-6AAA and attachments, in accordance with the DOTD DBE Program, and the following criteria.

(1) Credit will only be given for use of DBE that are certified by the Louisiana Unified Certification Program. Certification of DBE by other agencies is not recognized.

(2) The total value of subcontracts awarded for construction and services to an eligible DBE is counted toward the DBE goal provided the DBE performs a commercially useful function. The contractor is responsible for ensuring that the goal is met using DBE that perform a commercially useful function.

The contractor shall operate in a manner consistent with the guidelines set forth in the DOTD DBE Program. A commercially useful function is performed when a DBE is responsible for the execution of a distinct element of work by actually managing, supervising, and performing the work in accordance with standard industry practices except when such practices are inconsistent with 49 CFR Part 26 as amended, and the DOTD DBE Program, and when the DBE receives due compensation as agreed upon for the work performed. To determine whether a DBE is performing a commercially useful function, the DOTD shall evaluate the work subcontracted in accordance with the DOTD DBE Program, industry practices and other relevant factors. When an arrangement between the contractor and the DBE represents standard industry practice, if such arrangement erodes the ownership, control or independence of the DBE, or fails to meet the commercially useful function requirement, the contractor will not receive credit toward the goal.

(3) A DBE prime contractor may count only the contract amount toward DBE participation for work he/she actually performs and for which he/she is paid. Any subcontract amounts awarded to certified DBE by a DBE prime will also be credited toward DBE participation provided the DBE subcontractor performs a commercially useful function.

(4) A contractor may count toward the DBE goal 100 percent of verified delivery fees paid to a DBE trucker. The DBE trucker must manage and supervise the trucking operations with its own employees and use equipment owned by the DBE trucker. No credit will be counted for the purchase or sale of material hauled unless the DBE trucker is also a DOTD certified DBE supplier. No credit will be counted unless the DBE trucker is an approved subcontractor.

(5) A contractor may count toward the DBE goal, when a DBE performs as a participant in a joint venture, the total dollar value of the contract equal to the distinct, clearly defined portion of work within the contract that the DBE performs with its own forces. The joint venture agreement shall include a detailed breakdown of the following:

- a. Contract responsibility of the DBE for specific items of work.
- b. Capital participation by the DBE.
- c. Specific equipment to be provided to the joint venture by the DBE.
- d. Specific responsibilities of the DBE in the control of the joint venture.
- e. Specific manpower and skills to be provided to the joint venture by the DBE.
- f. Percentage distribution to the DBE of the projected profit or loss incurred by the joint venture.

(6) A contractor may count toward the DBE goal only expenditures for materials and supplies obtained from DBE suppliers and manufacturers in accordance with the following:

- a. The DBE supplier assumes actual and contractual responsibility for the provision of materials and supplies.
- b. The contractor may count 100 percent of expenditures made to a DBE manufacturer provided the DBE manufacturer operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- c. The contractor may count 60 percent of the expenditures to DBE suppliers who are regular dealers but not manufacturers, provided the DBE supplier performs a commercially useful function in the supply process including buying the materials or supplies, maintaining an inventory, and selling materials regularly to the public. Dealers in bulk items such as steel, cement, aggregates and petroleum products are not required to maintain items in stock, but they must own or operate distribution equipment. The DBE supplier shall be certified as such by DOTD.
- d. A DBE may not assign or lease portions of its supply, manufactured product, or service agreement without the written approval of the DOTD.

(7) A contractor may count toward the DBE goal reasonable expenditures to DBE firms including fees and commissions charged for providing a bona fide service; fees charged for hauling materials unless the delivery service is provided by the manufacturer or regular dealer as defined above; and fees and commissions for providing any bonds or insurance specifically required for the performance of the contract.

(8) The contractor will not receive credit if the contractor makes direct payment to the material supplier. However, it may be permissible for a material supplier to invoice the contractor and DBE jointly and be paid by the contractor making remittance to the DBE firm and material supplier jointly. Prior approval by DOTD is required.

(9) The contractor will not receive credit toward the DBE goal for any subcontracting arrangement contrived to artificially inflate the DBE participation.

G. AWARD DOCUMENTATION AND PROCEDURE: This project has specific DBE goal requirements set forth in the Special Provision for DBE Participation in Federal Aid Construction Contracts. The bidder by signing this bid certifies that:

(1) The goal for DBE participation prescribed in the special provisions shall be met or exceeded and arrangements have been made with certified DBE or good faith efforts made to meet the goal will be demonstrated.

(2) Affirmative actions have been taken to seek out and consider DBE as potential subcontractors. Bidders shall contact DBE to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain, on file, proper documentation to substantiate their good faith efforts.

(3) Form CS-6AAA, "Attachment to Form CS-6AAA", and, if necessary, good faith effort documentation shall be submitted to the DOTD by the due date which is set forth in the "apparent bid results" and "bid results" posted on the Department's website. Submittals **must** be entered online at <http://www.dotd.la.gov/administration/compliance/cs6aaa/home.aspx>. If necessary, the Good Faith Effort Documentation Form will also be filled out online at this time. Once reviewed and after the CS-6AAA is approved, an email will be sent back to the prime contractor to obtain the required signatures. After signatures are obtained, the form **must** then be sent electronically to dotdcs6aaacompliance@la.gov prior to the specified date and time required. The CS-6AAA form with original signatures must be submitted to the DOTD with all other documents also required for contract execution and approval. Should a bidder protest or appeal any matter regarding the bidding or award of a contract in accordance with Subsection 102.13 of the 2006 Standard Specifications (Subsection 102.13 of the 2000 Louisiana Standard Specifications) after the scheduled time of bid opening, the Department will immediately suspend the time requirement for submission of Form CS-6AAA and Attachments until further notice and will notify all parties involved of

the suspension. Once the protest has been resolved the Department will notify the low bidder and issue a date for submission of Form CS-6AAA and Attachments.

All attachments to Form CS-6AAA shall include:

- a. The names of DBE subcontractors that will actually participate in meeting the contract goal; and
- b. A complete description of the work to be performed by the DBE including the specific items and portions of items of work, quantities, and unit price(s) of each item; and
- c. The total dollar value of each item that can be credited toward the contract goal; and
- d. Any assistance to be provided to the DBE; and
- e. The original signature of each DBE and the contractor attesting that negotiations are in progress and that it is the intention of the parties to enter into a subcontract within 60 calendar days from the time the contract is finalized between the contractor and DOTD.

It shall be the bidder's responsibility to ascertain the certification status of designated DBEs. An extension of time for submittal of Form CS-6AAA and Attachments will not be granted beyond the stated time. Questionable technical points will be cleared with the DOTD Compliance Programs Office within the time period allowed. If the documentation required is not provided in the time and manner specified, DOTD will take the actions specified in Heading (6) below.

(4) If the apparent low bidder is not able to meet the DBE goal, the DBE participation which has been secured to meet a portion of the goal shall be listed on the Form CS-6AAA and attachments. They shall be completed and submitted in accordance with Heading (3) above by the specified date. Documentation of adequate good faith efforts to meet the remainder of the goal must be submitted with the forms. Examples of good faith efforts are shown in Section J.

The DOTD's evaluation of good faith efforts in the pre-award stage will focus primarily on efforts made prior to submittal of the bid. For consideration, good faith efforts shall include the requirements listed in these provisions as well as other data the contractor feels is relevant.

(5) Form CS-6AAA and attachments, and documentation of good faith efforts, when appropriate, will be evaluated by DOTD in the selection of the lowest responsible bidder. The information provided shall be accurate and complete. The apparent low bidder's proposed attainment of the DBE goal and/or demonstration of good faith efforts will be considered in the award of the contract.

(6) An apparent low bidder's failure, neglect, or refusal to submit Form CS-6AAA and attachments committing to meet or exceed the DBE goal and/or documentation of good faith efforts, shall constitute just cause for the DOTD to reject the bid, pursue award to the next lowest bidder, or re-advertise the project. The original apparent low bidder will be declared irregular and will not be allowed to bid on the project should re-advertisement occur.

(7) The bidder has the right to appeal the DOTD's findings and rulings to the DOTD Chief Engineer. The bidder may present information to clarify the previously submitted documentation. The decision rendered by the DOTD Chief Engineer will be administratively final. There shall be no appeal to the US DOT. If the DOTD Chief Engineer does not rule in favor of the original apparent low bidder, the new apparent low bidder shall submit, in detail, its subsequent proposed DBE participation within the time specified on the notification from the Project Control Engineer.

(8) Agreements between the bidder and the DBE, whereby the DBE agrees not to provide subcontracting quotations to other bidders, are prohibited.

H. POST AWARD COMPLIANCE

(1) If the contract is awarded on less than full DBE goal participation, such award will not relieve the contractor of the responsibility to continue exerting good faith efforts. The contractor shall submit documentation of good faith efforts, which can be found at www.dotd.la.gov/administration/compliance/downloads.aspx, with requests to sublet prior to approval of subcontracting work being performed on the project.

(2) The contractor shall establish a program which will effectively promote increased participation by DBE in the performance of contracts and subcontracts. The contractor shall also designate and make known to the DOTD a liaison officer who will be responsible for the administration of the contractor's DBE program.

(3) The contractor shall enter into subcontracts or written agreements with the DBE identified on Form CS-6AAA and attachments for the kind and amount of work specified. The subcontracting requirements of the contract will apply. The contractor shall submit copies of subcontracts or agreements with DBE to DOTD upon request.

(4) The contractor shall keep each DBE informed of the construction progress schedule and allow each DBE adequate time to schedule work, stockpile materials, and otherwise prepare for the subcontract work.

(5) At any point during the project when it appears that the scheduled amount of DBE participation may not be achieved, the contractor shall provide evidence demonstrating how the goal will be met.

(6) If the contractor is unable to demonstrate to the DOTD's satisfaction that it failed to achieve the scheduled DBE participation due to reasons other than quantitative under runs or elimination of items contracted to DBE and that good faith efforts have been used to obtain the scheduled contract participation, the DOTD may withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

(7) When the DOTD has reason to believe the contractor, subcontractor, or DBE may not be operating in compliance with the terms of these DBE provisions, to include, but not be limited to the encouragement of fronting, brokering, or not providing a commercially useful function, the DOTD will conduct an investigation of such activities with the cooperation of the parties involved. If the DOTD finds that any person or entity is not in compliance, the DOTD will notify such person or entity in writing as to the specific instances or matters found to be in noncompliance.

At the option of the DOTD, the person or entity may be allowed a specified time to correct the deficiencies noted and to achieve compliance. In the event that the person or entity cannot achieve compliance, or fails or refuses to do so, the DOTD reserves the right to initiate administrative action against the contractor which may include but not be limited to terminating the contract; withholding a percentage of the contractor's next partial payment equal to the shortfall amount until corrective action is taken; or other action the DOTD deems appropriate. The contractor has the right to appeal the DOTD's finding and rulings to the DOTD Chief Engineer.

The contractor may present additional information to clarify that previously submitted. Any new information not included in the original submittal will not be used in the final determination. The decision rendered by the DOTD Chief Engineer will be administratively final.

(8) To ensure that the obligations under subcontracts awarded to subcontractors are met, the DOTD will review the contractor's efforts to promptly pay subcontractors for work performed in accordance with the executed subcontracts. The contractor shall promptly pay subcontractors and suppliers, including DBE, their respective subcontract amount within 14 calendar days after the contractor receives payment from DOTD for the items satisfactorily performed by the subcontractors in accordance with Louisiana Revised Statute 9:2784. The contractor shall provide the DBE with a full accounting to include quantities paid and deductions made from the DBE's partial payment at the time the check is delivered. Retainage may not be held by the contractor. Delay or postponement of payment to the subcontractor may be imposed by the contractor only when there is evidence that the subcontractor has failed to pay its labor force and suppliers

for materials received and used on the project. Delay or postponement of payment must have written approval by the Project Engineer. Failure to promptly pay subcontractors or to release subcontractors' retainage shall constitute a breach of contract and after notification by the DOTD may result in (1) a deduction from the contract funds due or to become due the contractor, (2) disqualification of a contractor as non-responsive, or (3) any other such remedy under the contract as DOTD deems appropriate. All subcontracting agreements made by the contractor shall include the current payment to subcontractors provisions as incorporate in the contract. All disputes between contractors and subcontractors relating to payment of completed work or retainage shall be referred to the DBE Oversight Committee. Members of the DBE Oversight Committee are: the Deputy Chief Engineer; the DOTD Compliance Programs Director; and a FHWA Division Representative.

(9) The contractor shall meet the requirements of Subsection 108.01 Subletting of Contract, and shall submit DOTD Forms OMF-1A, Request to Sublet and OMF-2A, Subcontractor's EEO Certification. These forms shall be approved by DOTD before any subcontract work is performed.

(10) DOTD reserves the right to withhold any partial payment from the contractor when it is determined that a DBE is not performing a commercially useful function or that achievement of the goal is in jeopardy. Payment may be withheld in the amount of the DBE goal that is in jeopardy until either the contractor submits to DOTD a revised plan for achieving the contract goal and the plan is approved, or the DBE goal amount in question has been met.

(11) The DOTD will monitor the contractor's DBE involvement during the contract, the level of effort by the contractor in meeting or exceeding the goal requirements in the contract, the contractor's attempts to do so, and the efforts in soliciting such involvement. If, at the completion of the project, the contractor has failed to meet the DBE goal and has not demonstrated good faith efforts or obtained a waiver or reduction of the goal, DOTD will withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

I. SUBSTITUTIONS OF DBE FIRMS AFTER AWARD

(1) The contractor shall conform to the scheduled amount of DBE participation.

(2) Contract items designated to be performed by the DBE on Form CS-6AAA and attachments shall be performed by the designated DBE or DOTD approved substitute. Substitutions of named DBE shall be approved in writing by the DOTD Compliance Programs Section. Substituted DBE shall not commence work until the contractor is able to demonstrate that the listed DBE is unable to perform because of default, overextension on other jobs, or other acceptable justification. It is not intended that a contractor's ability to negotiate a more advantageous contract with another subcontractor be considered a valid basis for change. Substitution of DBE will be allowed only when the DBE is unable to perform due to default, overextension on other jobs, or other similar justification. Evidence of good faith efforts exerted by the contractor shall be submitted to DOTD for approval. Pay items of work eliminated from the project will not diminish the contractor's DBE participation.

(3) Under no circumstances will a contractor perform work originally designated to be performed by a DBE without prior written approval from the DOTD Compliance Programs Section.

(4) When a listed DBE is unwilling or unable to perform the items of work specified in the Form CS-6AAA and attachments, the contractor shall immediately notify the DOTD Compliance Programs Section.

When a contractor's request to be relieved of the obligation to use the named DBE results in a DBE Goal shortfall, the contractor shall immediately take steps to obtain another certified DBE to perform an equal amount of allowable credit work or make documented good faith efforts to do so. The new DBE's name and designated work shall be submitted to the DOTD for approval using Form OMF-1A, Request to Sublet, prior to proceeding with the work.

If the contractor is unable to replace a defaulting DBE with another DBE for the applicable item, a good faith effort shall be made to subcontract other items to DBE for the purpose of meeting the goal. The DOTD Compliance Programs Section will determine if the contractor made an acceptable good faith effort in awarding work to DBE firms. Any disputes concerning good faith efforts will be referred to the DBE Oversight Committee. The DOTD Compliance Programs Section may allow a waiver or adjustment of the goal as may be appropriate, depending on individual project circumstances.

J. GOOD FAITH EFFORTS: Good faith efforts are required by the contractor when the DBE goals established for a contract are not met, or at anytime during the contract when achievement of the DBE goal is in jeopardy. It is the contractor's responsibility to provide sufficient evidence for DOTD to ascertain the efforts made. The contractor shall demonstrate adequate good faith efforts to meet the contract goal by utilizing DBE participation prior to award and during the life of the contract. Good faith efforts include personal contacts, follow-ups and earnest negotiations with DBE. DOTD will consider, at a minimum, the following efforts as relevant, although this listing is not exclusive or exhaustive and other factors and types of efforts may be relevant:

- (1) Efforts made to select portions of the work to be performed by DBE in order to increase the likelihood of achieving the stated goal. It is the contractor's responsibility to make a sufficient portion of the work available to subcontractors and suppliers and to select those portions of work or materials consistent with the availability of DBE subcontractors and suppliers to assure meeting the goal for DBE participation. Selections of portions of work are required to at least equal the DBE goal in the contract.
- (2) Written notification at least 14 calendar days prior to bid opening which solicits a reasonable number of DBE interested in participation in the contract as a subcontractor, regular dealer, manufacturer, or consultant for specific items of work. The contractor shall provide notice to a reasonable number of DBE that their interest in the contract is being solicited, with sufficient time to allow the DBE to participate effectively. The contractor shall seek DBE in the same geographic area from which it generally seeks subcontractors for a given project. If the contractor cannot meet the goal using DBE from the normal area, the contractor shall expand its search to a wider geographic area.
- (3) Demonstrated efforts made to negotiate in good faith with interested DBE for specific items of work include:
 - a. The names, addresses and telephone numbers of DBE contacted. The dates of initial contact and whether initial solicitations of interest were followed up personally, by mail, or by phone to determine the DBE interest.
 - b. A description of the information provided to DBE regarding the nature of the work, the plans and specifications and estimated quantities for portions of the work to be performed.
 - c. A statement of why additional agreements with DBE were not reached.
 - d. Documentation of each DBE contacted but rejected and the reasons for rejection. All bids and quotations received from DBE subcontractors whether verbal or written, and the contractor's efforts to negotiate a reasonable price shall be submitted. Rejecting a DBE's bid because it was not the lowest quotation received will not be satisfactory reason without an acceptable explanation of how it was determined to be unreasonable. A statement that the DBE's quotation was more than the contractor's bid price for an item or items will not be acceptable.
 - e. Copies of all bids and quotations received from DBE subcontractors and an explanation of why they were not used.
 - f. Scheduling meetings to discuss proposed work or to walk the job-site with DBE.
 - g. Informing DBE of any pre-bid conferences scheduled by the DOTD.
 - h. Assisting DBE in obtaining bonding, insurance, or lines of credit required by the contractor.

i. Evidence of DBE contacted but rejected as unqualified, accompanied by reason for rejection based on a thorough investigation of the DBEs capabilities.

j. Any additional information not included above which would aid the DOTD in evaluation of the contractor's good faith efforts.

(4) The following are examples of actions that will not be accepted as justification by the contractor for failure to meet DBE contract goals:

a. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.

b. Rejection of a DBE bid or quotation based on price alone.

c. Failure to contract with a DBE because the DBE will not agree to perform items of work at the unit price bid.

d. Failure to contract with a DBE because the contractor normally would perform all or most of the work in the contract.

e. Rejection of a DBE as unqualified without sound reasons based on a thorough investigation of their capabilities.

f. Failure to make more than mail solicitations.

K. RECORD KEEPING REQUIREMENTS: The contractor shall keep such records as are necessary for the DOTD to determine compliance with the DBE contract obligations. These records shall include the names of subcontractors, including DBE; copies of subcontracts; the type of work being performed; documentation such as canceled checks and paid invoices verifying payment for work, services, and procurement; and documentation of correspondence, verbal contacts, telephone calls, and other efforts to obtain services of DBE. When requested, the contractor shall submit all subcontracts and other financial transactions executed with DBE in such form, manner and content as prescribed by DOTD. The DOTD reserves the right to investigate, monitor and/or review actions, statements, and documents submitted by any contractor, subcontractor, or DBE.

L. REPORTING REQUIREMENTS: The contractor shall submit monthly reports on DBE involvement. At the conclusion of each estimate period the contractor shall submit the Form CP-1A, CONTRACTORS MONTHLY DBE PARTICIPATION, to the project engineer to verify actual payments to DBE for the previous month's reporting period. These reports will be required until all DBE subcontracting activity is complete or the DBE Goal has been achieved. Reports are required regardless of whether or not DBE activity has occurred in the monthly reporting period.

Upon completion of all DBE participation, the contractor shall submit the Form CP-2A, DBE FINAL REPORT, to the DOTD Compliance Programs Section with a copy to the project engineer detailing all DBE subcontract payments. When the actual amount paid to DBE is less than the award amount, a complete explanation of the difference is required. If the DBE goal is not met, documentation supporting good faith efforts shall be submitted. Failure to submit the required reports will result in the withholding of partial payments to the contractor until the reports are submitted. All payments due to subcontractors which affect DBE goal attainment, including retainage, shall be paid by the contractor before the DOTD releases the payment/performance/retainage bond.

The DOTD reserves the right to conduct an audit of DBE participation prior to processing the final estimate and at any time during the work.

M. APPLICABILITY OF PROVISIONS TO DBE BIDDERS: These provisions are applicable to all bidders including DBE bidders. The DBE bidder is required to perform at least 50 percent of the work of the contract with its own work force in accordance with the terms of the contract, normal industry practices, and the DOTD DBE Program. If the DBE bidder sublets any portion of the contract, the DBE bidder shall comply with provisions regarding contractor and subcontractor relationships. A DBE prime contractor may count only the contract amount toward DBE participation for work that he/she actually performs and any amounts awarded to other certified DBE subcontractors that perform a commercially useful function.

**FORM CS-6AAA
BIDDERS ASSURANCE OF DBE PARTICIPATION**

S.P.#	Contract Amount: \$
F.A.P.#	DBE Goal Percentage
Letting Date:	DBE Goal Dollar Value: \$

By its signature affixed hereto, the contractor assures the DOTD that one of the following situations exists (check only one box):

- ☐ The project goal will be met or exceeded.
- ☐ A portion of the project goal can be met, as indicated below. Good faith effort documentation is attached. DBE Goal Participation Amount _____ % \$_____.

The contractor certifies that each firm listed is currently on the DBE list as maintained by DOTD and is certified for the items of work shown on the attachment(s). The contractor having assured that the goal for DBE participation prescribed in the special provisions will be met or exceeded, or that the portion of the DBE goal will be met or exceeded, attests that negotiations are in progress or complete and that a subcontract(s) will be executed with the firm(s) listed below within 60 calendar days after award of contract.

NAME OF DBE FIRM(S)	INTENDED SUBCONTRACT PRICE ¹

¹For supplier list only the value of the subcontract that can be credited toward the DBE goal. This amount shall be equal to the amount shown for the supplier on the Attachment to Form CS-6AAA. Details are listed on the attachment(s) to Form CS-6AAA.

The contractor assessed the capability and availability of named firm(s) and sees no impediment to prevent award of subcontract(s) as described on the attachments.

The contractor shall evaluate the subcontract work or services actually performed by the DBE to ensure that a commercially useful function is being served in accordance with the Required Contract Provisions for DBE Participation in Federal Aid Construction Contracts. The contractor understands that no credit toward the DBE goal will be allowed for DBE that do not perform a commercially useful function.

NAME OF CONTRACTOR	
AUTHORIZED SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
CONTRACTOR'S DBE LIAISON OFFICER (typed or printed name)	
PHONE NUMBER	
DATE	TAX ID#

ATTACHMENT TO FORM CS-6AAA

Contractor shall submit a separate attachment for each DBE listed on Form CS-6AAA.

S.P.#	F.A.P.#
NAME OF DBE	
PHONE #	CONTACT PERSON:

Fully describe the work to be performed (furnish materials and install, labor only, supply only, manufacture, hauling, etc.), quantity, unit price, and dollar value for each item to be subcontracted to the DBE listed below.

ITEM NO.	QUANTITY/UNIT PRICE/DESCRIPTION OF WORK TO BE PERFORMED	\$ VALUE

Describe the types of assistance, if any, the contractor will provide to any DBE on this project.

The contractor and DBE subcontractor attest that a subcontract will be executed for the items of work listed above. The contractor acknowledges that it will only receive credit toward the DB goal if the subcontractor performs a commercially useful function. The DBE understands that it is responsible for performing a commercially useful function.

DBE CONTRACTOR'S SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DATE	TAX ID#
PRIME CONTRACTOR'S SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DATE	

04/11

FORM CP-1A
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
CONTRACTOR'S MONTHLY DBE PARTICIPATION

STATE PROJECT NO.	CONTRACTOR:	
FEDERAL AID PROJECT NO.	REPORT PERIOD: _____ TO _____	
ESTIMATE NO.		

DOTD CERTIFIED DBE SUBCONTRACTOR OR SUPPLIER	ITEMS PERFORMED AND PAID THIS ESTIMATE PERIOD	AMOUNT PAID THIS MONTH ¹	TOTAL PAID TO DATE ¹

¹For suppliers, list total amount paid and the 60 percent value counted toward the goal.

This report covers the previous estimate period and shall be submitted to the Project Engineer with the current month's pay estimate. Estimates will be withheld until required form is submitted. Questions should be directed to the DOTD Compliance Programs Section at (225) 379-1382.

The Contractor certifies that the above amounts were paid to the listed DBEs and that documentation of these payments is available for inspection.

Project Engineer has reviewed this form. _____ (Signature of Project Engineer).

Authorized Signature
Typed or Printed Name
Title
Phone No.
Date

04/11

FORM CP-2A

STATE PROJECT NO.	DBE GOAL AMOUNT: \$	CONTRACTOR:
FEDERAL PROJECT NO.	CONTRACT AMOUNT: \$	
PARISH(ES)	LETTING DATE:	

[illegible]

This is to certify that \$_____ has been paid to Disadvantaged Business Enterprise Subcontractors/Suppliers listed above.

Authorized Signature	
Typed or Printed Name	
Title	
Date	

Parish or County _____ State of _____

Subscribed and sworn to, before me, this _____ day of _____, A.D. 20_____

Notary Public

My commission expires: _____

04/11

DBE GOOD FAITH EFFORT DOCUMENTATION

The intent of this form is to document the good faith effort attempts made by the apparent low bidder in soliciting DBE firms to meet the DBE project goal. Please note that the project goal will not be waived and the contractor must make efforts to achieve the goal throughout the life of the contract.

Every work type where there is a certified DBE, the apparent low bidder must submit the form as follows:

- 1 available DBE – must contact 1 DBE
- 2-5 available DBEs – must contact 3 DBEs minimum
- 6-7 available DBEs – must contact 4 DBEs minimum
- 8-9 available DBEs – must contact 5 DBEs minimum
- 10 or more available DBEs – must contact 6 DBEs minimum

All information submitted on this form is subject to audit by the DBE Goal Committee

Date Submitted: _____

State Project Number: _____ Parish: _____

Contractor Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone Number: _____

Email Address: _____

Project Goal Percentage: _____

Commitment Percentage: _____

Unattained Percentage: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and/or prosecution under applicable State and Federal laws.

Bidder/Authorized Representative Signature: _____ Date: _____
Title: _____

DBE GOOD FAITH EFFORT DOCUMENTATION

Work Type Number	Description of Work, Service or Material	DBE Firm Name
Contact Name (First and Last)	Contact Date	Contact Method
1.		Contact Results
2.		Bid Amount
3.		
Comments:		
Work Type Number	Description of Work, Service or Material	DBE Firm Name
Contact Name (First and Last)	Contact Date	Contact Method
1.		Contact Results
2.		Bid Amount
3.		
Comments:		
Work Type Number	Description of Work, Service or Material	DBE Firm Name
Contact Name (First and Last)	Contact Date	Contact Method
1.		Contact Results
2.		Bid Amount
3.		
Comments:		

ATTACHMENT 2

REQUEST TO SUBLET AND EXTRACT OF SUBCONTRACT (OMF-1A)

Form OMF-1A (01/13)
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
REQUEST TO SUBLET AND EXTRACT OF SUBCONTRACT

DATE: _____

STATE PROJECT NO. _____ FEDERAL AID PROJECT NO.: _____

NAME OF PROJECT: _____

NOTES TO CONTRACTOR:

- (1) Quantity refers to quantity as per unit of measure as defined in contract. (2) Unit price is the price for each item paid to subcontractor (which may not equal to the unit price bid by the contractor). (3) You may use an attachment for additional items.

As Contractor of the above project, I request your consent to sublet the following items of work to the undersigned Subcontractor.

CONTRACT ITEM NO.	CONTRACT ITEM DESCRIPTION	QUANTITY	UNIT PRICE
<input type="checkbox"/> Additional Items		ALL ITEMS TOTAL	

I, as Contractor, understand and agree that the subcontract shall not relieve me of my liability under the contract and bonds, and bonds, and that the subcontract work is a part of the work covered by a written agreement I have with the subcontractor which incorporates all requirements and pertinent provisions of the prime contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE or SBE Participation as required by 49 CFR 26.13(b) and 49 CFR 26.39. The terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

CONTRACTOR _____ PHONE NO. _____ FAX NO. _____

NAME OF OWNER (use only if company is a Sole Proprietorship) _____

ADDRESS _____ LICENSE NO. _____

FEDERAL TAX I.D. _____

BY: _____ TITLE: _____

I, as subcontractor, understand and agree that no part of the above listed subcontract work shall be further sublet without written consent. I certify that the subcontracted work is covered by a written agreement with the contractor which states the work shall be performed in accordance with the DOTD construction contract with the contractor for this project, and that the written subcontract agreement incorporates all requirements and pertinent provisions of the prime contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE and/or SBE Participation as required by 49 CFR 26.13(b) and 49 CFR 26.39 and that the minimum wages stated in said prime contract shall be applied to the subcontracted work, and the terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

SUBCONTRACTOR _____ PHONE NO. _____ FAX NO. _____

NAME OF OWNER (use only if company is a Sole Proprietorship) _____

ADDRESS: _____ LICENSE NO. _____

FEDERAL TAX I.D. _____

BY: _____ TITLE: _____

(Signature)

REVIEWED DATE: _____ APPROVED BY: _____
(Compliance Program Specialist)

For Office Use Only:

Requested %: _____

To Date %: _____

DATE: _____

10. <https://doi.org/10.1016/j.jmb.2019.05.005>

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[illegible]

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUBCONTRACTOR'S EEO CERTIFICATION

Certification with regard to the performance of previous contracts or subcontracts subject to the Equal Opportunity Clause and the filing of required reports – Federal Aid Contracts.

STATE PROJECT NO. _____

FEDERAL AID PROJECT NO.: _____

PARISH: _____

NAME OF PRIME CONTRACTOR: _____

The proposed subcontractor certifies that he has ☐, has not ☐, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114 or 11246, and that he has ☐, has not ☐, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance. A Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

NAME OF SUBCONTRACTOR

BY: _____

SIGNATURE

DATE: _____

TITLE

The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (B)(1)), and must be submitted by bidders and proposed subcontractors in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. Generally only contracts or subcontracts of \$10,000 or under are exempt.

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports shall submit a report covering the delinquent period or such other period specified by the Federal Highway Administration or the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM OMF-2A (01/13)

ATTACHMENT 3

LOUISIANA UNIFIED CERTIFICATION PROGRAM

PLAN AND PROCESS

EXHIBIT A
LAUCP CERTIFICATION PLAN AND PROCESS

I. OVERVIEW

In February 1999, the U. S. Department of Transportation (DOT) issued new Disadvantaged Business Enterprise (DBE) regulations, Title 49 of the Code of Federal Regulations, (CFR) Part 26, to provide uniform requirements from the DOT. A major component in the new regulation is for all recipients who receive DOT funding to develop a Unified Certification Program (UCP) for certifying small socially and economically disadvantaged businesses. To the extent an inconsistency may exist between this Plan and Process and 49 CFR 23 and 26, as amended; 49 CFR 23 and 26, as amended, shall control. The process must be defined and submitted to the Secretary of Transportation by March 4, 2002.

II. RECIPIENTS

This program affects the Louisiana DOTD and direct FTA and FAA recipients who will award prime contracts exceeding \$250,000 in FTA or FAA funds in a year. The following list of recipients has been identified, contacted and afforded the opportunity to participate in the planning, development and implementation of Louisiana's Unified Certification Program.

City of Abbeville	False River Regional Airport
Acadia Airport District #1 (Le Gros)	Port Fourchon
Acadiana Regional Airport	Town of Franklinton
Airport Com. Of Airport District	Harry P. Williams Memorial Airport
Alexandria International Airport	Hammond Northside Regional Airport
City of Alexandria	City of Hammond
Allen Parish Police Jury	Town of Homer
Avoyelles Parish Police Jury	Houma Terrebonne Airport Comm.
Assumption Parish Police Jury	Iberia Parish Government
Baton Rouge Metro. Airport	IMCAL
City of Baton Rouge – EBR Parish	Jefferson Davis Parish Police Jury
Beauregard Parish Airport District	Jefferson Parish Transit
Bunkie Municipal Airport	Jonesville Municipal Airport
Caldwell Parish Police Jury	Lafayette Airport Commission
Capital Area Transit System	Lafayette Parish Consolidated Govt.
Capital Region Planning Commission	LaSalle Parish Police Jury
Capital Transportation Corp.	City of Lake Charles
Chennault International Airport	City of Leesville
Claiborne Parish Police Jury	LA DOTD
Concordia Parish Airport	LA Regional Airport
Delhi Municipal Airport	Madison Parish Police Jury
DeSoto Parish Police Jury	Marksville Municipal Airport
City of DeQuincy	Monroe Regional Airport
City of Donaldsonville	New Orleans Aviation Board
City of Eunice	Orleans Levee District

Town of Many
City of Minden
City of Monroe
Olla Airport
Plaquemine Parish Government
Pointe Coupee Parish Police Jury
Town of Rayville
Red River Parish Police Jury
Regional Transit Authority
River Parishes Transit Authority
City of Ruston
St. Bernard Urban Rapid Transit
St. James Parish Council
St. John the Baptist Airport
St. Martin Parish
St. Mary Parish Government
St. Tammany Parish Government
St. Landry Parish Airport

Scott Airport
Shreveport Downtown Airport
Shreveport Regional Airport
City of Slidell
South Central Planning & Develop.
Southland Field
Springhill Airport
Tangipahoa Parish Council
Terrebonne Parish
Union Parish Police Jury
Vernon Parish Police Jury
Town of Vivian
Webster Parish Police Jury
West Carroll Parish Airport Authority
City of West Monroe
City of Winnfield
Winnsboro Municipal Airport
Regional Planning Com. (Orleans)

III. IMPACT

The Federal Regulation, 49 CFR 26 requires the establishment of a single uniform process, or one stop shopping for DBE applications, certifications, and development of a single point DBE directory. The UCP will not establish, recommend, or alter the DBE Plan and Program of any recipient, other than to supplement an approved plan. The development of a DBE goal, administration, monitoring, and reporting remains the sole responsibility of the recipient agency.

IV. PURPOSE OF CERTIFICATION

The purpose of certification is to ensure that only small businesses independently owned and controlled in both substance and form by one or more socially and economically disadvantaged persons participate in the LAUCP DBE Program. These businesses must meet all eligibility standards set forth in 49 CFR 26, subpart D, as amended.

The Certifying Agencies are responsible for determining and certifying the eligibility of all businesses seeking to participate as DBEs on federally assisted transportation related contracts.

V. DEFINITIONS

The LAUCP shall adhere to the definitions set forth in the Federal Regulation, 49 CFR 26.5.

- A. Certifying Agency means a recipient with the authority to perform DBE certification. The Certifying Agencies in the State of Louisiana are the Louisiana Department of Transportation and Development, the Louis

Armstrong New Orleans International Airport, the Orleans Levee District, and the New Orleans Regional Transit Authority. Each agency will certify within the regions identified in the UCP agreement.

- B. Concessionaire means a firm that owns and controls a concession or a portion of a concession, as defined by 49 CFR 23
- C. Grandfathering means that all firms mutually agreed upon by the UCP committee and certified at the time of merger of the individual directories shall remain certified at the time of program implementation or at such date determined by the UCP executive committee. In such instance where a firm has multiple certification anniversary dates the earliest certification date shall be used for purposes of recertification and annual updates.
- D. LA DOTD means the Louisiana Department of Transportation and Development.
- E. Principal Place of Business/Home State means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the Certifying Agency will determine the principal place of business for DBE program purposes.

VI. LAUCP CERTIFICATION PROCESS

- A. Application - The certification application will be provided upon request by any Certifying Agency to businesses seeking recognition as a DBE. It is the responsibility of the applicant for certification to submit the required information in a notarized statement under penalty of perjury. Information on eligibility and instructions for completing and furnishing information and documentation that establishes whether each applicant meets the DBE eligibility standards (business size, ownership and control) are included in the application designated as Schedule A.

Applications for certification, along with accompanying documentation shall be examined and evaluated by the Certifying Agency. A determination is reached regarding a firm's eligibility based on whether or not the applicant meets the business size, social and economic disadvantage, ownership, and control requirements. The eligibility standards and guidelines used in making the determinations are included in the regulation (49 CFR 26). Decisions on applications for certification will be made within 90 days of receiving a complete application. The Certifying Agency may extend this time period once, for an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

- B. Desk Audit – At minimum, the following documents will be reviewed prior to a certification decision:

- Personal Net Worth Statement (current within 6 months)
- Statement of Social Disadvantage
- Organizational Documents
- Status of Marital Regime and Division of Property Statement
- Initial Contributions
- Stock Certificates (if applicable)
- Organizational Tax Returns for the past 3 years for the applicant firm and any affiliated and subsidiary firms
- Owner(s) Individual tax returns for the past three years
- Company financial statements
- Resumes for the principal owners and key staff members
- Equipment (owned and accessible)
- Work History of the applicant company
- Bonding and financial capability of the firm

C. On-site and project site reviews - The Certifying Agency must perform a site visit to the office of the applicant and to any job site which the firm is working at the time of the eligibility investigation. Principals of the applicant firm must be interviewed. Office and job site visits may be omitted from the investigation in any of the following situations:

1. If a firm has obtained certification by a DOT recipient in its home state prior to applying with a Certifying Agency in Louisiana. On-site reviews may be conducted on firms whose principal place of business is not within Louisiana.
2. If the Certifying Agency, in its discretion, accepts the certification of another DOT recipient, who included site visits conforming to the regulations.
 - a. The Certifying Agency will contact the appropriate UCP personnel in the state of the applicant's principal place of business for the on-site review report and related documents.
 - b. If the home state's on-site review is more than three years old, the Certifying Agency can request the home state to conduct an updated on-site review. If, however, due to budget or time constraints, the home state cannot, the Certifying Agency can require the applicant firm to provide an affidavit stating that all

facts in the last report conducted by the home state remain true and correct.

- D. Verification of Eligibility - It is the Certifying Agency's responsibility to verify that the applicant meets all the eligibility standards of 49 CFR 26. Each file shall be reviewed to determine if the business is approved, denied or deferred.

If certification is approved, the business shall be added to the LAUCP's directory of certified businesses.

If certification is denied, the applicant will be notified of the decision in writing, detailing the specific reasons for denial.

If certification is deferred, additional information will be requested prior to making a determination or, if the applicant has not responded to a request for information, the file will be closed. After six months, a new application will be required.

VII. CERTIFICATION STANDARDS

- A. The major requirements for certification may be found in 49 CFR 26, Subpart D.

VIII. DEALERS, MATERIAL SUPPLIERS AND MANUFACTURERS

- A. Commercially useful function, normally a counting concept will be considered by the certifying agency in administering contracts to evaluate the firm's method of supplying materials. In accordance with the requirements of commercially useful function as defined in 49 CFR 26.55, standard industry practices will be taken into account when considering a firm's method of supplying products. However, when standard industry practices violate DBE program requirements, DBE program requirements will prevail. It is the responsibility of the recipient to determine whether a DBE is performing a commercially useful function.
- B. In order for a firm to qualify as a DBE supplier of metal and/or concrete pipe for highway, street and bridge construction and maintenance, the firm must also manufacture the pipe. Metal and/or concrete pipe is specialty pipe which is project specific, and is inspected during the manufacturing process. This arrangement provides for no warehousing of metal or concrete pipe, and essentially requires the manufacturer to be the supplier. Merely ordering pipe from the fabricator, and in turn selling it to contractors, is not consistent with normal industry practice.

IX. TRUCKERS

To be DBE certified, trucking firms must own at least one fully operational truck. The owner is not required to drive the truck and may hire drivers. The truck must have a current registration and be properly licensed. The owner of the trucking firm must also meet all other eligibility requirements

X. CONCESSIONAIRES

A. Process and Net Worth

The certification process for applicants seeking to be recognized as a concessionaire is the same as the process set forth in Section VII of this Plan. However, concessionaire applicants are not required to submit personal net worth statements, but must submit all other documents required by this plan and 49 CFR Parts 23 and 26, as amended.

B. Size Standards

An eligible DBE concessionaire cannot exceed the size standards outlined in Appendix A to subpart F of 49 CFR 23.

C. Franchise and License Agreement

A business operating under a franchise or license agreement may be certified if it meets the standards outlined in this plan and the franchiser is not an affiliate with the franchisee. In determining whether affiliation exists, the restraints relating to standardized quality advertising, accounting format and other provisions imposed on a franchisee by its franchise agreement generally will not be considered, provided that the franchisee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee may not be controlled by the franchiser by virtue of such provisions in the franchise agreement. Control, and therefore affiliation, could arise through other means, such as common management and excessive restrictions upon the sale of the franchise interest.

D. Ineligible Arrangements

Arrangements which are ineligible for DBE certification include limited partnerships in which a non-DBE is the general partner, and other arrangements that do not provide for ownership and control by the socially and economically disadvantaged owner(s).

XI. DISPUTE RESOLUTION OF CERTIFICATION

- A. The Executive Committee, comprised of a representative of each of the 4 Certifying Agencies and two at large members, shall reconcile disputes among the Certifying Agencies with respect to certification. The resolution of such disputes will be decided by the Executive Committee. The certifying agency that certified a disputed firm shall recuse itself from the process. If a voting certifying agency member cannot attend, it must send a representative with a proxy. In the event of a tie vote, the Chairman of the Committee will make the final decision.

XII. DENIALS OF CERTIFICATION

- A. When a Certifying Agency determines a business to be ineligible for certification, the Certifying Agency will notify the firm, in writing. The letter shall provide an explanation or basis for the denial, specifically referencing the applicable regulations and the evidence in the record that supports each reason for the denial.

All certification denials are administratively final and conclusive at the state level. The applicant firm may appeal the decision, in writing, within 90 days of the date of LAUCP's decision to the U.S. Department of Transportation. The appeals shall be addressed to the U.S. Department of Transportation, Departmental Office of Civil Rights, Certification Appeals Branch, 1200 New Jersey Avenue, SE W-35, Washington, D.C. 20590. The Certifying Agency will promptly implement any DOT certification appeal decisions affecting the eligibility of the applicant, if DOT overturns the certifying agency's decision.

- 1. EXCEPTION. If an out of state firm is denied by a Certifying Agency they must be afforded appeal rights as outlined in Section XIII, D Informal Hearings, pursuant to 49 CFR 26.85.
- B. A firm that is denied certification cannot reapply for certification to any Certifying Agency for a period of twelve months after a final decision has been rendered.

XIII. DECERTIFICATION

- A. Third Party Challenges
 - 1. Any person may challenge the eligibility of a firm that has been certified. A written complaint which includes information and arguments supporting a complainant's allegations of ineligibility must be accepted by a Certifying Agency. The complainant's identity must be kept confidential in accordance with 49 CFR

26.109 (b).

2. A recipient, a Certifying Agency, or DOT may initiate a challenge in the event information is discovered which suggest that a firm, certified pursuant to this Plan, may not be eligible for certification.
3. Regardless of whether a challenge is initiated by a third party, a recipient, a Certifying Agency, or DOT decertification proceedings must be initiated.

B. Failure to Submit No Change Annual Affidavits

1. If a firm fails to submit a no change annual affidavit prior to the firm's anniversary date, the certifying agency will initiate decertification proceedings. The firm will be notified in writing of their failure to cooperate, and will be allowed 14 days to respond to the intent to decertify.
2. The process followed will be the same as addressed in section D. Informal Hearings, F. Appeal Rights, and G. Re-Application mentioned below.

C. Agency Review

1. The Certifying Agency must review its records, the material provided by a complainant and any other relevant information to determine whether there is reasonable cause to believe that a certified firm is ineligible.
2. After the Certifying Agency completes its review, written notice must be provided to the firm about the proposed action.
3. The written notice must contain the reason for the proposed finding and the notice must make specific reference to the evidence in the record supporting a proposed finding.

D. Informal Hearings

Proceedings to decertify a firm shall be commenced in accordance with 49 CFR 26.87.

1. The DBE firm shall be offered an opportunity to present evidence in support of continued eligibility for DBE certification at an informal hearing.

2. The hearing shall be conducted before the Executive Committee of the LAUCP. Representatives of the Certifying Agency which investigated the challenge and/or made the decision to propose decertification shall not participate in making a decision to remove the firm from eligibility. There shall be an administrative firewall between the proponents of decertification and the decision makers.
3. There must be a written record of the proceedings. A court reporter will provide a transcript with the certifying agency who initiated the decertification being responsible for the cost. The Executive Committee will issue a written decision. The decision will be provided to the firm and the certifying agency.

E. Personal Net Worth

If the reason that a Certifying Agency proposes decertification is that the owner's Personal Net Worth is in excess of the limits set forth in the applicable regulations, the Certifying Agency shall notify the owner in writing of the firm's decertification. No further action shall be taken by the Certifying Agency and/or LAUCP. A firm decertified pursuant to this process shall have the right to appeal to the U.S. Department of Transportation.

F. Appeal Rights

1. Any firm may appeal a decertification decision, in writing, to the U.S. Department of Transportation within 90 days of the date of the LAUCP's decision.

U.S. Department of Transportation
Departmental Office of Civil Rights
Certification Appeals Branch
1200 New Jersey Avenue, SE W-35
Washington, D.C. 20590

2. A firm that is decertified remains ineligible during its appeal process to U. S. DOT.

The LAUCP shall promptly implement any decisions rendered by U. S. DOT.

G. Re-Application

A firm that is decertified cannot re-apply for certification to any Certifying Agency for a period of twelve (12) months after a final decision has been rendered.

XIV. NO CHANGE AFFIDAVITS (ANNUAL UPDATES)

- A. Once certified, a DBE must update its submission every year by submitting a notarized affidavit of no change, and supporting documents such as corporate and individual tax returns and an update personal net worth statement, pursuant to 49 CFR 26.83(j) which affirms its continued ability to meet the eligibility requirements of the program. The Certifying Agency that processed the original application for the firm will be responsible for all notices and processing of all annual updates.
- B. Out of state firms must provide a copy of the most recent home states certification approval.
- C. A firm is required to notify the Certifying Agency of all circumstances which affect the firm's ability to meet the size, disadvantaged status, ownership or control within 14 days of the change.
- D. On-site reviews may be conducted on firms every three years from the date of their last on-site visit. Each Certifying Agency reserves the right to conduct on-site reviews at any time they deem necessary.

XV. CONFIDENTIALITY

The LAUCP will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information consistent with Federal and State laws. Louisiana's Public Records Act, safeguards certain information from release and LAUCP will not release personal financial information submitted in response to the personal net worth as contained in the certification application to a third party, (does not apply to US DOT) without expressed written consent.

ATTACHMENT 4

LAUCP CERTIFICATION APPLICATION AND ATTACHMENTS

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

49 C.F.R. PART 26

UNIFORM CERTIFICATION APPLICATION

ROADMAP FOR APPLICANTS

N Should I apply?

- o Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
- o Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
- o Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$22.41 million in gross annual receipts?
- o Is your firm organized as a for-profit business?

→ If you answered "Yes" to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

J Is there an easier way to apply?

If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form. **NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.**

R Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.**P Where can I find more information?**

- o U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- o SBA – <http://www.ntis.gov/naics> (provides a listing of NAICS codes) and <http://www.sba.gov/size/index/tableofsize.html> (provides a listing of SIC codes)
- o 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

**INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM UNIFORM CERTIFICATION APPLICATION**

NOTE: If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Check the appropriate box indicating for which program your firm is currently certified. If you are already certified as a DBE, indicate in the appropriate box the name of the certifying agency that has previously certified your firm, and also indicate whether your firm has undergone an onsite visit. If your firm has already undergone an onsite visit/review, indicate the most recent date of that review and the state UCP that conducted the review.

NOTE: If your firm is currently certified under the SBA's 8(a) and/or SDB programs, you may not have to complete this application. You should contact your state UCP to find out about a streamlined application process for firms that are already certified under the 8(a) and SDB programs.

B. Prior/Other Applications and Privileges

Indicate whether your firm or any of the persons listed has ever withdrawn an application for a DBE program or an SBA 8(a) or SDB program, or whether any have ever been denied certification, decertified, debarred, suspended, or had bidding privileges denied or restricted by any state or local agency or Federal entity. If your answer is yes, indicate the date of such action, identify the name of the agency, and explain fully the nature of the action in the space provided.

Section 2: GENERAL INFORMATION

A. Contact Information

- (1) State the name and title of the person who will serve as your firm's primary contact under this application.
- (2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation.
- (3) Indicate the primary phone number of your firm.
- (4) Indicate a secondary phone number, if any.
- (5) Indicate your firm's fax number, if any.
- (6) Indicate your firm's or your contact person's email address.
- (7) Indicate your firm's website address, if any.
- (8) State the street address of your firm (i.e. the physical location of its offices -- not a post office box address).
- (9) State the mailing address of your firm, if it is different from your firm's street address.

B. Business Profile

- (1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.
- (2) Give the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.
- (3) Give the date on which your firm was officially established, as stated in your firm's Articles of Incorporation.

- (4) Give the date on which you and/or each other owner took ownership of the firm.
- (5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.

- (6) Check the appropriate box that indicates whether your firm is "for profit."

NOTE: If you checked "No," then you do NOT qualify for the DBE program and therefore do not need to complete the rest of this application. The DBE program requires all participating firms be for-profit enterprises.

- (7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation. If you checked "Other," briefly explain in the space provided.
- (8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.
- (9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.
- (10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

C. Relationships with Other Businesses

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.
- (2) Check the appropriate box that indicates whether at present, or at any time in the past:
 - (a) your firm has been a subsidiary of any other firm;
 - (b) your firm consisted of a partnership in which one or more of the partners are other firms;
 - (c) your firm has owned any percentage of any other firm; and
 - (d) your firm has had any subsidiaries of its own.
- (3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

- (4) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.

D. Immediate Family Member Businesses

Check the appropriate box that indicates whether any of your immediate family members own or manage another company. An "immediate family member" is any person who is your father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law. If you answered "Yes," provide the name of each relative, your relationship to them, the name of the company they own or manage, the type of business, and whether they own or manage the company.

Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each additional owner):

A. Background Information

- (1) Give the name of the owner.
- (2) State his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) State his/her home (street) address.
- (5) Check the appropriate box that indicates this owner's gender.
- (6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen.
- (8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program's other qualifying requirements.

B. Ownership Interest

- (1) State the number of years during which this owner has been an owner of your firm.
- (2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.
- (3) State the percentage of total ownership control of your firm that this owner possesses.
- (4) State the familial relationship of this owner to each other owner of your firm.
- (5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.

- (6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's title or function held in that business.

- (7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business and this owner's title or function held in that business. Briefly describe the nature of the business relationship in the space provided.

C. Disadvantaged Status

NOTE: You only need to complete this section for each owner that is applying for DBE qualification (i.e. for each owner who is claiming to be "socially and economically disadvantaged" and whose ownership interest is to be counted toward the control and 51% ownership requirements of the DBE program)

- (1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner's PNW.
- (2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors:

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

B. Identify your firm's management personnel (by name, title, ethnicity, and gender) who control your firm in the following areas:

- (1) Making of financial decisions on your firm's behalf, including the acquisition of lines of credit, surety bonds, supplies, etc.;
 - (2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;
 - (3) Negotiating and contract execution, including participation in any of your firm's negotiations and executing contracts on your firm's behalf;
 - (4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;
 - (5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;
 - (6) Office management;
 - (7) Marketing and sales;
 - (8) Purchasing of major equipment;
 - (9) Signing company checks (for any purpose); and
 - (10) Conducting any other financial transactions on your firm's behalf not otherwise listed.
 - (11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
 - (12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.
- C. Indicate your firm's inventory in the following categories:**
- (1) **Equipment**
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.
 - (2) **Vehicles**
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.
 - (3) **Office Space**
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.
 - (4) **Storage Space**
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.
- D. Does your firm rely on any other firm for management functions or employee payroll?**
Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," briefly explain the nature of that reliance and the extent to which the other firm carries out such functions.
- E. Financial Information**
- (1) **Banking Information**
 - (a) State the name of your firm's bank.
 - (b) Give the main phone number of your firm's bank branch.
 - (c) Give the address of your firm's bank branch.
 - (2) **Bonding Information**
 - (a) State your firm's Binder Number.
 - (b) State the name of your firm's bond agent and/or broker.
 - (c) Give your agent's/broker's phone number.
 - (d) Give your agent's/broker's address.
 - (e) State your firm's bonding limits (in dollars), specifying both the Aggregate and Project Limits.
- F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:**
State the name and address of each source, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.
- G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:**
Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.
- H. List current licenses/permits held by any owner or employee of your firm.**
List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and the license/permit number and issuing State of the license or permit.
- I. List the three largest contracts completed by your firm in the past three years, if any.**
List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.
- J. List the three largest active jobs on which your firm is currently working.**
For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.
- AFFIDAVIT & SIGNATURE**
Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.

All Applicants

- ☐ Work experience resumes (that include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- ☐ Personal Financial Statement (form available with this application)
- ☐ Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- ☐ Your firm's tax returns (gross receipts) and all related schedules for the past three years
- ☐ Documented proof of contributions used to acquire ownership for each owner (*e.g. both sides of cancelled checks*)
- ☐ Your firm's signed loan agreements, security agreements, and bonding forms
- ☐ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- ☐ List of equipment leased and signed lease agreements
- ☐ List of construction equipment and/or vehicles owned and titles/proof of ownership
- ☐ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- ☐ Year-end balance sheets and income statements for the past three years (*or life of firm, if less than three years*); a new business must provide a current balance sheet
- ☐ All relevant licenses, license renewal forms, permits, and haul authority forms
- ☐ DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications, if applicable
- ☐ Bank authorization and signatory cards
- ☐ Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- ☐ Trust agreements held by any owner claiming disadvantaged status, if any

Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- ☐ Official Articles of Incorporation (*signed by the state official*)
- ☐ Both sides of all corporate stock certificates and your firm's stock transfer ledger
- ☐ Shareholders' Agreement
- ☐ Minutes of all stockholders and board of directors meetings
- ☐ Corporate by-laws and any amendments
- ☐ Corporate bank resolution and bank signature cards
- ☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Trucking Company

- ☐ Documented proof of ownership of the company
- ☐ Insurance agreements for each truck owned or operated by your firm
- ☐ Title(s) and registration certificate(s) for each truck owned or operated by your firm
- ☐ List of U.S. DOT numbers for each truck owned or operated by your firm

Regular Dealer

- ☐ Proof of warehouse ownership or lease
- ☐ List of product lines carried
- ☐ List of distribution equipment owned and/or leased

NOTE: The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required.

**LOUISIANA UNIFIED CERTIFICATION PROGRAM
APPLICATION FOR CERTIFICATION
DISADVANTAGED BUSINESS ENTERPRISE**

A firm applying for certification as a Disadvantaged Business Enterprise (DBE) is only required to apply with one of the agencies listed below. In accordance with Louisiana's Unified Certification Program (UCP), once a firm is certified by any of the participating agencies the firm is recognized as a DBE firm by all UCP participants.

Please note that all firms may apply with the Louisiana Department of Transportation and Development. Firms may also apply with the respective agencies which are located within the region where the firm is located. Out of state firms may apply with any UCP agency.

This application must be typed or printed clearly in ink. Every question must be answered and all requested documents must be submitted. Use additional sheets as necessary and reference the specific item(s) you are addressing. Applications with incomplete information will delay processing.

Completed applications should be returned to the address shown below:

Region 1

**Remy Graves
Louisiana Department of Transportation & Development
Post Office Box 94245
Baton Rouge, Louisiana 70804-9245
(225) 379-1382 (telephone)
(225) 379-1865 (fax)
Remy.graves@la.gov**

Region 2

**Philistine Ferrand
Louis Armstrong New Orleans International Airport
Post Office box 20007
New Orleans, Louisiana 70141
(504) 303-7611 (telephone)
(504) 463-1041 (fax)
philisti@flymsy.com**

**Nina Hebert-Marchand, Director
Orleans Levee District
6920 Franklin Avenue, Ste 106
New Orleans, Louisiana 70122
(504) 286-3100 ext 1008 or 1034 (telephone)
(504) 288-5628 (fax)
nmarchand@orleanslevee.com**

**Janice Abadie
Regional Transit Authority
2817 Canal Street
New Orleans, Louisiana 70119
(504) 827-8308 (telephone)
jabadie@norta.com**

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Is your firm currently certified for any of the following programs? <i>(If Yes, check appropriate box(es))</i>	<input type="checkbox"/> DBE	Name of certifying agency:
		Has your firm's state UCP conducted an on-site visit?
		<input type="radio"/> Yes, on / / State: <input type="radio"/> No
	<input type="checkbox"/> 8(a) <input type="checkbox"/> SDB	<input checked="" type="checkbox"/> STOP! If you checked either the 8(a) or SDB box, you <u>may not</u> have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.

B. Prior/Other Applications and Privileges

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? <input type="radio"/> Yes, on ____/____/____ <input type="radio"/> No If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:
--

Section 2: GENERAL INFORMATION

A. Contact Information

(1) Contact person and Title:		(2) Legal name of firm:		
(3) Phone #:	(4) Other Phone #:	(5) Fax #:		
(6) E-mail:		(7) Website (if have one):		
(8) Street address of firm (No P.O. Box):		City:	County/Parish:	State: Zip:
(9) Mailing address of firm (if different):		City:	County/Parish:	State: Zip:

B. Business Profile

(1) Describe the primary activities of your firm:	(2) Federal Tax ID (if any):
(3) This firm was established on / /	(4) I/We have owned this firm since: / /
(5) Method of acquisition (check all that apply): <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain)	
(6) Is your firm "for profit"? <input type="radio"/> Yes <input type="radio"/> No	<input checked="" type="checkbox"/> STOP! If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.

(7) Type of firm (check all that apply):

☐ Sole Proprietorship

☐ Partnership

☐ Corporation

☐ Limited Liability Partnership

☐ Limited Liability Corporation

☐ Joint Venture

☐ Other, Describe: _____

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?

☐ Yes ☐ No

If Yes, explain: _____

(9) Number of employees: Full-time _____ Part-time _____ Total _____

(10) Specify the gross receipts of the firm for the last 3 years: Year _____ Total receipts \$ _____

Year _____ Total receipts \$ _____

Year _____ Total receipts \$ _____

C. Relationships with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?

☐ Yes ☐ No

If Yes, identify: Other Firm's name: _____

Explain nature of shared facilities: _____

(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm?	<input type="radio"/> Yes <input type="radio"/> No
	(b) consisted of a partnership in which one or more of the partners are other firms?	<input type="radio"/> Yes <input type="radio"/> No
	(c) owned any percentage of any other firm?	<input type="radio"/> Yes <input type="radio"/> No
	(d) had any subsidiaries?	<input type="radio"/> Yes <input type="radio"/> No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past? ☐ Yes ☐ No

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):

	Name	Address	Type of Business
1.			
2.			
3.			

D. Immediate Family Member Businesses

Do any of your immediate family members own or manage another company? ☐ Yes ☐ No

If Yes, then list (attach extra sheets, if needed):

	Name	Relationship	Company	Type of Business	Own or Manage?
1.					<Select>
2.					<Select>

Section 3: OWNERSHIP

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below *(If more than one owner, attach separate sheets for each additional owner):*

A. Background Information

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (street and number):		City: State: Zip:
(5) Gender: <input type="radio"/> Male <input type="radio"/> Female	(6) Ethnic group membership (Check all that apply):	
(7) U.S. Citizen: <input type="radio"/> Yes <input type="radio"/> No	<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____	
(8) Lawfully Admitted Permanent Resident: <input type="radio"/> Yes <input type="radio"/> No		

B. Ownership Interest

(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm: <table style="width: 100%; border: none;"> <tr> <td style="text-align: right;">Type</td> <td style="text-align: right;">Dollar Value</td> </tr> <tr> <td style="text-align: right;">Cash</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: right;">Real Estate</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: right;">Equipment</td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: right;">Other</td> <td style="text-align: right;">\$</td> </tr> </table>	Type	Dollar Value	Cash	\$	Real Estate	\$	Equipment	\$	Other	\$
Type		Dollar Value									
Cash		\$									
Real Estate	\$										
Equipment	\$										
Other	\$										
(3) Percentage owned:											
(4) Familial relationship to other owners:											
(5) Shares of Stock: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><u>Number</u></td> <td style="text-align: center;"><u>Percentage</u></td> <td style="text-align: center;"><u>Class</u></td> <td style="text-align: center;"><u>Date acquired</u></td> <td style="text-align: center;"><u>Method Acquired</u></td> </tr> </table>		<u>Number</u>	<u>Percentage</u>	<u>Class</u>	<u>Date acquired</u>	<u>Method Acquired</u>					
<u>Number</u>	<u>Percentage</u>	<u>Class</u>	<u>Date acquired</u>	<u>Method Acquired</u>							
(6) Does this owner perform a management or supervisory function for any other business? <input type="radio"/> Yes <input type="radio"/> No If Yes, identify: Name of Business: _____ Function/Title: _____											
(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? <input type="radio"/> Yes <input type="radio"/> No If Yes, identify: Name of Business: _____ Function/Title: _____ Nature of Business Relationship: _____											

C. Disadvantaged Status – NOTE: Complete this section only for each owner applying for DBE qualification (i.e. for each owner claiming to be socially and economically disadvantaged)

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? <i>(Use and attach the Personal Financial Statement form at the end of this application; attach additional sheets if more than one owner is applying)</i>
(2) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="radio"/> Yes <input type="radio"/> No If Yes, explain (attach additional sheets if needed):

Section 4: CONTROL

A. Identify your firm's Officers & Board of Directors (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify for each: Person: _____ Title: _____
Business: _____ Function: _____

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? ☐ Yes ☐ No

If Yes, identify for each: Firm Name: _____ Person: _____
Nature of Business Relationship: _____

B. Identify your firm's management personnel who control your firm in the following areas (If more than two persons, attach a separate sheet):

	Name	Title	Ethnicity	Gender
(1) Financial Decisions (responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)	a.			
	b.			
(2) Estimating and bidding	a.			
	b.			
(3) Negotiating and Contract Execution	a.			
	b.			
(4) Hiring/firing of management personnel	a.			
	b.			
(5) Field/Production Operations Supervisor	a.			
	b.			
(6) Office management	a.			
	b.			
(7) Marketing/Sales	a.			
	b.			
(8) Purchasing of major equipment	a.			
	b.			
(9) Authorized to Sign Company Checks (for any purpose)	a.			
	b.			
(10) Authorized to make Financial Transactions	a.			
	b.			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify for each: Person: _____ Title: _____
Business: _____ Function: _____

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?

☐ Yes ☐ No

If Yes, identify for each: Firm Name: _____ Person: _____
Nature of Business Relationship: _____

C. Indicate your firm's inventory in the following categories (attach additional sheets if needed):

(1) Equipment

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			<Select>
(b)			<Select>
(c)			<Select>

(2) Vehicles

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			<Select>
(b)			<Select>
(c)			<Select>

(3) Office Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)	<Select>	
(b)	<Select>	

(4) Storage Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)	<Select>	
(b)	<Select>	

D. Does your firm rely on any other firm for management functions or employee payroll? ☐ Yes ☐ No

If Yes, explain:

E. Financial Information

(1) Banking Information:

(a) Name of bank: _____ (b) Phone No: () _____

(c) Address of bank: _____ City: _____ State: _____ Zip: _____

(2) **Bonding Information:** If you have bonding capacity, identify: (a) Binder No: _____
 (b) Name of agent/broker _____ (c) Phone No: () _____
 (d) Address of agent/broker: _____ City: _____ State: _____ Zip: _____
 (e) Bonding limit: Aggregate limit \$ _____ Project limit \$ _____

F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:

Name of Source	Address of Source	Name of Person Securing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.					
2.					
3.					

H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	License Number and State
1.			
2.			
3.			

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.			
2.			
3.			

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.					
2.					
3.					

AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am _____ (title) of applicant firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (check all that apply):

Female	<input type="checkbox"/>	Black American	<input type="checkbox"/>
Hispanic American	<input type="checkbox"/>	Asian-Pacific American	<input type="checkbox"/>
Native American	<input type="checkbox"/>	Subcontinent Asian American	<input type="checkbox"/>
Other (specify)	_____		

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1,320,000, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on _____ (Date)

Signature _____
(DBE Applicant)

NOTARY CERTIFICATE



OMB APPROVAL NO. 3245-0188
EXPIRATION DATE: 11/30/2004

PERSONAL FINANCIAL STATEMENT

U.S. SMALL BUSINESS ADMINISTRATION

As of _____, _____

Complete this form for: (1) each proprietor, or (2) each limited partner who owns 20% or more interest and each general partner, or (3) each stockholder owning 20% or more of voting stock, or (4) any person or entity providing a guaranty on the loan.

Name	Business Phone
Residence Address	Residence Phone
City, State, & Zip Code	
Business Name of Applicant/Borrower	

ASSETS		(Omit Cents)	LIABILITIES		(Omit Cents)
Cash on hand & in Banks	\$		Accounts Payable	\$	
Savings Accounts	\$		Notes Payable to Banks and Others	\$	
IRA or Other Retirement Account	\$		(Describe in Section 2)		
Accounts & Notes Receivable	\$		Installment Account (Auto)	\$	
Life Insurance-Cash Surrender Value Only	\$		Mo. Payments	\$	
(Complete Section 8)			Installment Account (Other)	\$	
Stocks and Bonds	\$		Mo. Payments	\$	
(Describe in Section 3)			Loan on Life Insurance	\$	
Real Estate	\$		Mortgages on Real Estate	\$	
(Describe in Section 4)			(Describe in Section 4)		
Automobile-Present Value	\$		Unpaid Taxes	\$	
Other Personal Property	\$		(Describe in Section 6)		
(Describe in Section 5)			Other Liabilities	\$	
Other Assets	\$		(Describe in Section 7)		
(Describe in Section 5)			Total Liabilities	\$	
Total	\$		Net Worth	\$	
			Total	\$	

Section 1. Source of Income

Salary	\$	
Net Investment Income	\$	
Real Estate Income	\$	
Other Income (Describe below)*	\$	

Contingent Liabilities

As Endorser or Co-Maker	\$	
Legal Claims & Judgments	\$	
Provision for Federal Income Tax	\$	
Other Special Debt	\$	

Description of Other Income in Section 1.

*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

Section 2. Notes Payable to Banks and Others. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 3. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed).					
Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4. Real Estate Owned. (List each parcel separately. Use attachment if necessary. Each attachment must be identified as a part of this statement and signed.)			
	Property A	Property B	Property C
Type of Property			
Address			
Date Purchased			
Original Cost			
Present Market Value			
Name & Address of Mortgage Holder			
Mortgage Account Number			
Mortgage Balance			
Amount of Payment per Month/Year			
Status of Mortgage			

Section 5. Other Personal Property and Other Assets. (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

Section 6. Unpaid Taxes. (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 7. Other Liabilities. (Describe in detail.)

Section 8. Life Insurance Held. (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

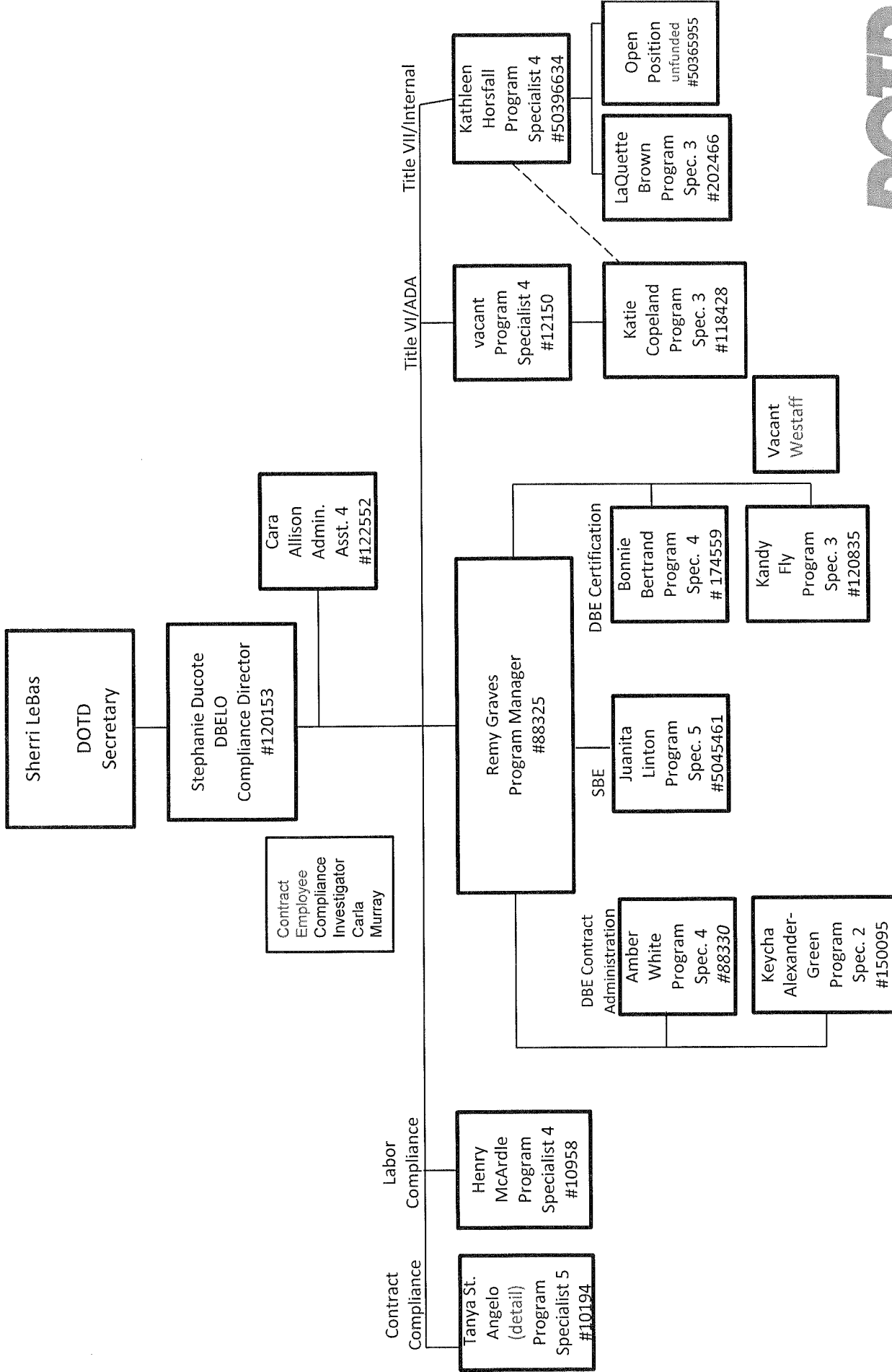
I authorize SBA/Lender to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness. I certify the above and the statements contained in the attachments are true and accurate as of the stated date(s). These statements are made for the purpose of either obtaining a loan or guaranteeing a loan. I understand FALSE statements may result in forfeiture of benefits and possible prosecution by the U.S. Attorney General (Reference 18 U.S.C. 1001).

Signature:	Date:	Social Security Number:
Signature:	Date:	Social Security Number:

PLEASE NOTE:	The estimated average burden hours for the completion of this form is 1.5 hours per response. If you have questions or comments concerning this estimate or any other aspect of this information, please contact Chief, Administrative Branch, U.S. Small Business Administration, Washington, D.C. 20416, and Clearance Officer, Paper Reduction Project (3245-0188), Office of Management and Budget, Washington, D.C. 20503. PLEASE DO NOT SEND FORMS TO OMB.
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ATTACHMENT 5

ORGANIZATION CHARTS



Louisiana Department of Transportation & Development

Revised 1/18/2013

